

Nantahala and Pisgah NFs Plan Revision  
Objection Coordinator  
160 Zillicoa Street, Suite A  
Asheville, NC 28804

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<https://cara.fs2c.usda.gov/Public/CommentInput?Project=43545>

Subject: Nantahala-Pisgah National Forest Plan Revision Objection

This submittal is an objection to the Draft ROD, FEIS, and Revised LMP for the Nantahala-Pisgah National Forest.

Name of the project being objected to, the name and title of the responsible official, and the name of the National Forest on which the project is located:

Nantahala-Pisgah Forest Plan, FEIS, and Draft ROD  
James E. Melonas, Forest Supervisor  
Nantahala-Pisgah National Forest  
160 Zillicoa St. Suite A  
Asheville, NC 28801

The objector's name, address, and email:

Greg Warren  
P.O. Box 2322  
Frisco, CO 80443  
[NSTrail@comcast.net](mailto:NSTrail@comcast.net)

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## Section I. Statement of Issues – Proposed Plan

The following are statements of the issues to which the objection applies and concise statements explaining the objection and suggestions on how the proposed plan decision may be improved. Submitted Draft Plan and DEIS comments are included in this objection as **Attachment A.**<sup>1</sup>

### A. Recreation Opportunity Spectrum

**a. Forest Plan:** The proposed Forest Plan beginning on page 113 states, “*Desired recreation settings (or ROS classes) for each management area are spatially represented in an accompanying GIS layer, which was mapped based on a combination of data generated using the national ROS inventory mapping protocol, resource specialist and public input, and management intent for specific management areas...*

- *Semi-primitive non-motorized settings are characterized by predominantly natural or natural-appearing landscapes. The size of these areas facilitate distance from more heavily used and developed areas, creating a sense of remoteness. Interaction with other users is low. These settings provide opportunities for self-reliance and utilizing wildland skills. Motorized vehicles are not present, while mountain bikes and other mechanized equipment may be present. Although some roads may be evident, they do not dominate the landscape. Vehicular use is infrequent. Occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management.*
- *Semi-primitive motorized settings are characterized as predominately natural or natural appearing Backcountry settings. Motorized travel by off-highway vehicles (OHVs) or high clearance vehicles occurs on designated routes and areas. Motorized routes are typically maintenance level 0-2 roads or motorized trails, offering a high degree of self-reliance, challenge, and risk in exploring these large Backcountry settings. Mountain bikes, other mechanized equipment, and non-motorized uses are also present. Limited rustic facilities are present for the purpose of visitor safety, sanitation, and resource protection.*
- *Roaded natural settings are characterized by predominately natural-appearing settings with moderate sights and sounds of human activities and development. The overall perception is one of naturalness. Evidence of human activity varies from area to area and may include improved highways and high maintenance level roads; developed campgrounds and other recreation sites; small resorts and summer homes; and evidence of other multiple uses and management activities such as livestock grazing, timber harvesting, mining, watershed restoration activities, and oil and gas operations. Roads,*

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<sup>1</sup>

[http://nstrail.org/planning/nantahala\\_pisgah\\_nfs/nantahala\\_pisgah\\_dplan\\_deis\\_comments\\_submitted\\_06162020.pdf](http://nstrail.org/planning/nantahala_pisgah_nfs/nantahala_pisgah_dplan_deis_comments_submitted_06162020.pdf)

*motorized equipment, and vehicles are common in this setting. Non-motorized uses are also present. The density of use is moderate except at developed sites, where concentrations of use are higher. Regulations pertaining to user behaviors are common but generally less restrictive than those in the Rural and Urban ROS classes....”*

## **b. Background for Issue and Statement of Explanation**

The Recreation Opportunity Spectrum (ROS) provides a framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities. The Forest Service is committed to use the ROS planning framework to define recreation settings. The Planning Rule, Planning Rule PEIS, FSM 2310 (WO Amendment 2300-90-1), Planning Directives, 1982 ROS User Guide, and the 1986 ROS Book (included in this objection as **Attachment B<sup>2</sup>**) were the recreation resource policy and technical basis for the planning rule and planning directives. To be consistent with the planning rule and recreation policy and research the Forest Plan must define and apply ROS principles that are consistent with the ROS planning framework which is the best available scientific information for the recreation resource. Most important is including ROS physical setting indicators when describing Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS setting desired conditions.

The ROS Book states, *“The physical setting is defined by the absence or presence of human sights and sounds, size, and the amount of environmental modification caused by human activity. The physical setting is documented by combining these three criteria as described below. Physical Setting - The physical setting is best defined by an area's degree of remoteness from the sights and sounds of humans, by its size, and by the amount of environmental change caused by human activity... The explicit nature of the ROS assists managers in identifying and mitigating conflict. Because the ROS identifies appropriate uses within different recreation opportunities, it is possible to separate potentially incompatible uses. It also helps separate those uses that yield experiences that might conflict, such as solitude and socialization... The ROS also helps identify potential conflicts between recreation and non-recreation resource uses. It does this in several ways. First, it can specify the overall compatibility between a given recreation opportunity and other resource management activities. Second, it can suggest how the activities, setting quality, or likely experiences might be impacted by other non-recreation activities. Third, it can indicate how future land use changes might impact the present pattern of a recreation opportunity provision. The apparent naturalness of an area is highly influenced by the evidence of human developments. If the landscape is obviously altered by roads, railroads, reservoirs, power lines, pipe lines, or even by highly visual vegetative manipulations, such as clearcuttings, the area will not be perceived as being predominately natural. Even if the total*

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<sup>2</sup> [http://nstrail.org/pdf\\_documents/ros\\_1986\\_user\\_guide\\_no\\_pnw-98\\_no\\_examples.pdf](http://nstrail.org/pdf_documents/ros_1986_user_guide_no_pnw-98_no_examples.pdf)

*acres of modified land are relatively small, "out of scale" modifications can have a negative impact."*

The Recreation Opportunity Spectrum provides a framework for integrating recreational opportunities and nonrecreational activities. The central notion of the spectrum is to offer recreationists alternative settings in which they can derive a variety of experiences. Because the management factors that give recreational value to a site are interdependent, management must strive to maintain consistency among these factors so that unplanned or undesired changes in the opportunities do not occur.

Primitive and Semi-Primitive ROS class plan components must constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these ROS class opportunities are to be protected.

The Forest Service, in FSM 2310 (WO Amendment 2300-2020-1) on April 23, 2020, modified the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum class definitions and no longer refers to the 1982 ROS User Guide direction for planning purposes. The agency does not explain the change to policy, but it appears that in part the Forest Service wishes to allow for mechanical vegetation treatments, timber production, and road construction in Semi-Primitive Motorized ROS settings. Concerning is that the agency does not disclose the consequences of those changes to recreationists seeking Semi-Primitive ROS experiences when new roads and heavy equipment are encountered in these more primitive ROS settings.

The 2020 Forest Service Manual 2310 amendment guidance is often inconsistent with the Recreation Opportunity Spectrum planning framework as described in the 1986 ROS Book and as referenced in the Planning Rule and associated PEIS. Draft Plan and DEIS comments and **Appendix A** in this objection review recreation planning directive FSM 2310 (WO Amendment 2300-2020-1).

**Issue and Statement of Explanation:** The proposed plan Recreation Opportunity Spectrum setting characteristics descriptions are inconsistent with the ROS planning framework as used for the planning rule and associated PEIS. The descriptions must be supplemented to address established definitions and protocols, especially for Semi-Primitive ROS settings. The Plan needs to add descriptions of ROS Class Desired Conditions, Standards, Guidelines, and Suitability.

Vehicle use is not a desired condition in Semi-Primitive Non-Motorized ROS settings. The statement that *vehicular use is infrequent and that occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management* allows for actions that would be inconsistent with the ROS planning framework for Semi-Primitive Non-Motorized ROS settings.

The Semi-Primitive Non-Motorized ROS class is described in the ROS Book on page II-32 stating, *"Area is characterized by a predominantly natural or natural-appearing environment of*

*moderate-to-large size... Motorized use is not permitted.”* Page II-33 states, *“High, but not extremely high, probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skills in an environment that offers challenge and risk.”* Page IV-6 states, *“An area designated at least ½-mile but not further than 3 miles from all roads, railroads or trails with motorized use; can include the existence of primitive roads and trails if usually closed to motorized use.”* Page IV-10 states, *“Natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area.”*

Motorized use on constructed roads, including maintenance level 2 roads, is not a desired condition in Semi-Primitive Motorized ROS settings. The Semi-Primitive Motorized ROS class is incompatible with timber production. Timber production should be associated with Roaded Modified ROS class conditions, which is a subclass of a Roaded Natural setting. The purpose of timber production is the purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use. In areas of timber production, the spread of non-native vegetation (e.g., noxious weeds) and reoccurring harvests for timber purposes, stand tending, road construction and reconstruction, and other development activities are incompatible with Semi-Primitive ROS setting desired conditions. Maintenance Level 0 road characteristics are not defined.

The Semi-Primitive Motorized ROS class is described in the ROS Book on page II-32 stating, *“Area is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size.”* Page II-33 states, *“Moderate probability of experiencing isolation of the sights and sounds of humans.”* Page IV-6 states, *“An area designated within ½-mile of primitive roads<sup>3</sup> or trails used by motor vehicles; but not closer than ½-mile from better than primitive roads.”* Page IV-10 states, *“Natural setting may have moderately dominant alterations but would not draw the attention of motorized observers on trails and primitive roads within the area.”*

Equally important is that timber production and associated roads in Semi-Primitive Motorized ROS settings would degrade adjacent Semi-Primitive Non-Motorized ROS settings. The ROS Book on page IV-6 describes that a SPNM inventoried area is *“at least ½-mile but not further than 3 miles from all roads, railroads or trails with motorized use; can include the existence of primitive roads and trails if usually closed to motorized use.”*

The Forest Plan recognizes that Roaded Natural ROS settings encompass areas where Roaded Modified conditions may occur stating, *“improved highways and high maintenance level roads; ... evidence of other multiple uses and management activities such as livestock grazing, timber*

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<sup>3</sup> “Primitive roads” are not constructed or maintained, and are used by vehicles not primarily intended for highway use (1982 User Guide and 1986 ROS Book).

*harvesting.”* Roaded Natural/Roaded Motorized ROS settings would also include Maintenance Level 1 and 2 roads; otherwise, Semi-Primitive Motorized ROS settings would inappropriately include roads that should have been described in the Plan as a Roaded Modified setting a subclass of the Roaded Natural ROS setting (FSH 1909.12 23.23a).

**c. Proposed Solution to Improve the Decision:** Modify the Plan description of ROS class plan components to be consistent with the ROS planning framework. The ROS plan components presented in Draft Plan and DEIS comments are consistent with the ROS Book.

For example, strike *“vehicular use is infrequent and that occasional administrative use occurs on these roads”* from the SPNM description. Describe and map Semi-Primitive Motorized ROS settings as not being suitable for timber production.

**d. Connection with Comments:** Draft Plan comments beginning on page 46, including Appendix A. Comments state in part that, *“The ROS setting characteristics descriptions are inconsistent with established definitions as used for the planning rule. The descriptions must be supplemented to address established definitions and protocols, especially for semi-primitive ROS settings. For example, the description must address evidence of humans in SPNM settings by describing that, “Natural setting may have subtle modifications that would be noticed, but not draw the attention of an observer wandering through the area. Little or no evidence of primitive roads and the motorized use of trails and primitive roads.”* In addition, the Plan needs to add descriptions of ROS Class Desired Conditions, Standards, Guidelines, and Suitability as described in Chapter III part A of these comments. The ROS planning framework is reviewed in Chapter III part B of this document.

*Several Management Areas provide for a broad range of ROS class allocations with no spatial designation, which is inconsistent with planning requirements. The Draft Plan does not contain sufficient information to foster informed decision-making and informed public participation. The Draft Plan should be reissued as a revised Draft Plan after addressing planning rule and planning directive recreation planning process omissions...*

*The plan must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes (36 CFR § 219.10(a); FSH 1909.12 23.23a). The following describes ROS setting plan components that represent each ROS class desired characteristics with supporting standards, guidelines, and suitability determinations. Standards and guidelines may have qualifications or allowed ROS class inconsistencies...*

The following are ROS class definitions that were submitted with Draft Plan and DEIS comments:

### **Semi-Primitive Non-Motorized ROS Setting**

#### **Semi-Primitive Non-Motorized ROS Class Desired Conditions**

*Setting: The area is predominantly a Natural-Appearing environment where natural ecological processes such as fire, insects, and disease exist. Interaction between users is low, but there is often evidence of other users. Experience: High probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of outdoor skill in an environment that offers a high degree of challenge and risk. Evidence of Humans: Natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area. The area provides opportunities for exploration, challenge, and self-reliance. The area may contribute to wildlife connectivity corridors. Closed roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area. Rustic structures such as signs and footbridges are occasionally present to direct use and protect the setting's natural and cultural resources.*

#### **Semi-Primitive Non-Motorized ROS Class Standards and Guidelines**

*Standards: (1) Motor vehicle use is not allowed unless the use is mandated by Federal law and regulation; and (2) Management actions must result in a High or Very High Scenic Integrity level; and (3) Roads may not be constructed. Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPNM settings; ... (4) Vegetation management may range from prescribed fire to very limited and restricted timber harvest for the purpose of maintaining or restoring a natural setting; and (5) To protect resources, any existing road should be decommissioned, obliterated, and recontoured with natural slopes.*

#### **Semi-Primitive Non-Motorized ROS Class Suitability of Lands**

*Suitability: (1) Motorized recreation travel is not suitable; and (2) Lands are not suitable for timber production.*

### **Semi-Primitive Motorized ROS Setting**

#### **Semi-Primitive Motorized ROS Class Desired Conditions**

*Setting: The area is predominantly Natural-Appearing environment. Concentration of users is low, but there is often evidence of other users. Experience: Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of outdoor skill in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment. Evidence of Humans:*



*Natural setting may have moderately alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes.*

### **Semi-Primitive Motorized ROS Class Standards and Guidelines**

*Standard: Management actions must result in at least a Moderate Scenic Integrity level.*

*Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPM settings; (2) Low to moderate contact between parties to protect the social setting; and (3) Vegetation management may range from prescribed fire to very limited and restricted timber harvest for the purpose of maintaining or restoring a natural setting.*

### **Semi-Primitive Motorized ROS Class Suitability of Lands**

*Suitability: Lands are not suitable for timber production.*

### **Roaded Natural ROS Setting**

#### **Roaded Natural ROS Class Desired Conditions**

*Setting: The area is predominantly Natural-Appearing environments with moderate evidences of the sights and sounds of human activities. Such evidences usually harmonize with the natural environment Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices evident, but harmonize with the natural environment... Experience: ... Opportunities for both motorized and non-motorized forms of recreation are possible. Evidence of Humans: Natural settings may have modifications, which range from being easily noticed to strongly dominant to observers within the area. However, from sensitive travel routes and use areas these alternations would remain unnoticed or visually subordinate. The landscape is generally natural with modifications moderately evident. Concentration of users is low to moderate, but facilities for group activities may be present. Challenge and risk opportunities are generally not important in this class. Opportunities for both motorized and non-motorized activities are present. Construction standards and facility design incorporate conventional motorized uses.*

*The **Roaded Modified subclass** includes areas that exhibit evidence of extensive forest management activities that are dominant on the landscape, including having high road densities, heavily logged areas, highly visible mining, oil and gas, wind energy, or other similar uses and activities....”*

#### d. FS Response to Comments

**FS Description of the Comment:** Commenters requested the plan recognize that timber production and associated actions are not aligned with some ROS classes, including Primitive, Semi-Primitive Non-Motorized (SPNM) and Semi-Primitive Motorized (SPM) ROS classes. They add timber harvest is not an objective for the Appalachian National Scenic Trail (ANST) and Backcountry Management Areas.

**FS Response:** A forestwide standard states that timber production will not be the primary purpose for projects and activities and shall complement the ecological restoration desired conditions and objectives. The desired ROS setting for Matrix management area, which is the largest area suitable for timber production, does not include desired Semi-Primitive Non-Motorized ROS settings. There are some desired SPNM settings in Interface, but they are generally in inaccessible areas, such as islands in reservoirs or shorelines where timber production is not likely to occur. After review of policy and the ROS User's Guide, it was confirmed that management of Semi-Primitive Motorized settings is not inconsistent with activities potentially occurring on lands suitable for timber production; especially if Scenic Integrity Objectives are being met. The ROS User's Guide and Forest Service Manual 2310 amendment say SPM settings are (predominately) natural or natural-appearing and the guide says they may have moderately dominate alterations. Neither says SPM settings do not allow timber production.

**Observation:** The statement that, "*Neither says SPM settings do not allow timber production*" lacks scientific integrity and is not associated with an analysis that utilizes the best available scientific information.

This response appears to rely on the ill-conceived 2020 FSM 2310 amendment. An example of a consequence if FSM 2310 (2300-2020-1) definitions are applied to plan components is that established Semi-Primitive Motorized ROS physical settings may be indistinguishable from a Roaded Modified ROS setting.

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings.

The formulation and issuance of FSM 2310 (2300-2020-1) is not in compliance with the Public Participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216). The amended policy (2300-2020-1) is inconsistent with the 36 CFR § 219 forest planning regulations and the Planning Rule PEIS.

**f. Violation of law, regulation, or policy:** USDA DR 1074-001, 36 CFR §§ 219.3, 219.10(a), 219.10(b)(1)(i), 219.11(a)(1)(iii); 40 CFR § 1502.24 (2005), 1502.23 (2020). Furthermore, see **Appendix A** of this objection for a more thorough review of FSM 2310 (2300-2020-1).

## **B. Backcountry**

**a. Forest Plan:** The proposed Forest Plan beginning on page 217 lists plan components for the Backcountry Management Area, including vegetation management, wildlife, forest health, fire, transportation and access, recreation, and scenery.

**b. Issue and Statement of Explanation:** Revised plan components are not integrated, written clearly, concisely, and without ambiguity.

**c. Proposed Solution to Improve the Decision:** Plan components for this Management Area need to be reconstructed with modifications that emphasize providing for Naturally Evolving or Natural-Appearing Scenic Character and a Semi-Primitive Non-Motorized ROS setting.

The following consolidated desired conditions could be adopted for the proposed Backcountry MA allocation:

- BAC-DC-01 - The desired recreation setting in Backcountry is Semi-Primitive Non-Motorized. Large blocks of remote and unroaded forest appear to be primarily shaped by natural processes, where mid to late-successional communities and old growth forests predominate.
- BAC-DC-02 - Desired Scenic Character is Natural-Appearing with a High Scenic Integrity Objective.
- BAC-DC-03 - Within Inventoried Roadless Areas, Roadless Area Characteristics are retained as defined in the 2001 Roadless Rule.
- BAC-DC-04 - Wildlife habitat conditions reflect large contiguous blocks, core, and interior forest conditions. Wildlife habitat conditions support rare and game species. Existing natural appearing wildlife fields and linear wildlife habitats are managed through non-motorized practices.
- BAC-DC-05 - The role of native pests as natural disturbances persists.
- BAC-DC-06 - Fire plays an important role in maintaining or restoring fire-associated forested communities and reduces fuel buildups.

BAC-S-02, BAC-S-03, and BAC-S-08 should be deleted. Ensure that standards and guidelines constrain actions to support desired conditions and that standards do not grant permissions.

BAC-S-09 should be deleted. A consideration is not a standard as defined by the planning rule.

BAC-S-10 and BAC-S-11 do not support Semi-Primitive Non-Motorized ROS setting desired conditions and should be deleted.

**d. Connection with Comments:** Plan and DEIS comments beginning on page 54. Comments describe in part that, *“Plan components for this Management Area need to be reconstructed with modifications that emphasize providing for Naturally Evolving or Natural-Appearing Scenic Character and a Semi-Primitive Non-Motorized ROS setting with limited and focused ROS setting inconsistency exemptions.”*

**e. FEIS Response to Comments:**

**FS Description of the Comment:** The standard (BAC-S-09) should succinctly state that system roads may not be constructed or reconstructed in the Backcountry Management Area.

**FS Response:** The language regarding road construction in the Backcountry MA is consistent with regulations for Inventoried Roadless Areas.

**Observation:** The response explanation is inconsistent with providing for a Semi-Primitive Non-Motorized ROS setting, which is a ROS setting that is more restrictive than that provided by Roadless Area regulations.

**f. Violation of Law, Regulation or Policy:** 16 U.S.C. § 1604(f)(1); 36 CFR §§ 219.7(e), 219.10(a), and 219.10(b)(1)(i); 40 CFR § 1503.4(a) (2005).

## **C. Appalachian National Scenic Trail**

**a. Forest Plan:** The proposed Forest Plan beginning on page 238 states, *“The Appalachian National Scenic Trail (ANST) was established by Congress in the National Trails System Act of 1968... Management is in accordance with the National Trails System Act and the Appalachian Trail Comprehensive Plan utilizing the cooperative management system. Along with the USFS, the NPS and ATC plan and carry out management actions and programs to protect, enhance, and ensure that uses do not substantially interfere with the nature and purposes of the ANST...*

*AT-DC-04 - The ANST traverses primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural and rural recreation settings, and is managed to be consistent with desired recreation settings as mapped for each location within the corridor management area. Trailheads are sensitive to scale and character and set the tone for a non-motorized experience. Motorized recreation, bicycles, horses, and pack stock are not present on the ANST footpath, except for authorized administrative use or at intersecting roads or trails. National forest roads within a half mile of the ANST are managed with consideration for hiker security, safety, and ANST values...*

*AT-DC-08 Desired scenic character is consistent with the following themes: natural evolving in primitive recreation settings; predominately natural evolving, natural-appearing, or pastoral in semi-primitive settings; and natural appearing, rural forested, pastoral, or cultural/historic in roaded natural or rural settings.*

*AT-S-02 Vegetation management in the ANST corridor management area shall maintain or enhance the ANST environment or user experience. Allow timber harvest, prescribed burning, wildfire, hand tools, power tools, mowing, herbicides, biological controls, or grazing to manage vegetation as appropriate...*

*AT-S-05 Authorize new roads within the ANST corridor management area only if entering the management area is the only feasible and prudent location and the road is not visible from the ANST footpath or associated features.*

*AT-S-06 Prohibit hauling or skidding along or across the ANST footpath or using the footpath as a landing or temporary road. Hauling or skidding in other locations within the corridor management area is allowed only if site-specific analysis indicates that it is the only feasible and prudent alternative, and that activities are not visible from the ANST footpath or associated features....”*

#### **b. Background for Issue and Statement of Explanation**

The National Trails System Act of 1968, 82 Stat. 919, as amended, provides that the Appalachian National Scenic Trail (ANST) shall be administered by the Secretary of Interior and so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of nationally significant scenic, historic, natural, or cultural qualities. It empowers and requires that the Secretary of Interior select the ANST rights-of-way which informs the National Scenic Trail corridor location and width. The ANST travel route is to be located within the established corridor. The establishment of the ANST corridor thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The National Trails System Act (NTSA) and *Trails for America in the 21st Century* Executive Order limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the ANST rights-of-way for the purpose of providing for the nature and purposes of the ANST.

The National Forest Management Act requires the formulation of one integrated plan (16 U.S.C. § 1604(f)(1)). The Act requires that a Land Management Plan address the comprehensive planning and other requirements of the NTSA in order to form one integrated Plan. As such, the NTSA Section 7(a)(2) guidance that a National Trails System segment be, “*designed to harmonize with and complement any established multiple-use plans for that specific area,*” is not applicable to a land management plan approved after the passage of the National Forest Management Act (NFMA) in 1976 and as addressed in the 1982 planning regulations. The Forest Service should recognize that the NTSA Section 7(a)(2) simply identifies the need for National Trails to be an integral part of multiple-use plans. Integration requirements were strengthened with the passage of NFMA in 1976. Furthermore, the NTSA was amended in 1978 in part to require comprehensive planning for National Scenic and Historic Trails. The 2012

NFMA regulations 36 CFR § 219.1 requires integrated resource management of the resources within the plan area and that plans must comply with all applicable laws and regulations. Planning regulations also require integrated resource management of multiple use (36 CFR § 219.10(a)), including providing for plan components to provide for the, “(vi) *Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.*”

**Issue and Statement of Explanation:** ANST Desired Conditions fail to recognize the nature and purposes and protect the qualities and values of this National Scenic Trail. The plan components do not address requirements to: (1) provide for recreation opportunities that reflect ROS planning framework conventions, and (2) conserve scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2)). In addition, the plan does not establish direction to: (1) preserve significant natural, historical, and cultural resources (16 U.S.C. § 1244(e)(1)); and (2) protect the ANST corridor to the degree necessary to ensure that the values for which the ANST was established remain intact or are restored (E.O. 13195, and FSH 1909.12 24.43).

**AT-DC-04** – The Plan fails to use the ROS planning framework to protect ANST qualities and values. Semi-Primitive Motorized, Roaded Natural, and Rural ROS settings do not provide for the nature and purposes of the ANST.

**AT-S-02** – The verbiage for AT-S-02 does not describe a standard as defined by the planning regulations.

**AT-S-05** and **AT-S-06** – AT-S-05 and AT-S-06 fail to use the ROS planning framework to provide for the nature and purposes of the ANST.

Maps found in **Appendix B** of this objection are examples of areas along the ANST corridor where ROS allocations and timber suitability determinations do not protect the ANST qualities and values, which could result in actions that would substantially interfere with the nature and purposes of this National Scenic Trail.

**c. Proposed Solution to Improve the Decision:** To address the requirements of NFMA Section 6(f)(1) and NTSA Sections 3(a)(2), 5(e) and 7(c), modify the ANST management corridor extent to provide for not only scenery, but also for Semi-Primitive Non-Motorized ROS class conditions. To provide for the conservation purposes of a National Scenic Trail the ANST corridor must provide for natural ecological processes and not just the visual appearance of naturalness. Establish and display on a Forest Plan map an ANST Management Area that is discernable with an extent of at least one-half mile on both sides of the ANST travel route.

**Add: AT-DC-NEW.** An ANST desired condition should state, “*The ANST route on the NPNF is for travel on foot through wild, scenic, wooded, and culturally significant landscapes. The corridor*

*along this route is preserved for the conservation and enjoyment of nationally significant scenic, historic, natural, and cultural qualities.”*

**Delete: AT-DC-4.** The final Plan should strike “*Semi-Primitive Motorized, Roaded Natural and Rural*” ROS settings from AT-DC-4 and make conforming adjustments to the Plan ROS map and the AT-DC-08 description.

**Delete: AT-S-02, AT-S-05 and AT-S-06.** These standards do not support the ANST nature and purposes desired conditions.

**Add: AT-S-NEW.** “*Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS class settings. Accepted Semi-Primitive Non-Motorized ROS class inconsistencies include existing operational maintenance level 3 and higher roads and recreation sites.*” Make conforming changes to the FEIS to address accepted inconsistencies.

**d. Connection with Comments:** Draft Plan comments beginning on page 56. Comments state in part that, “*Recognizing the foreground along the ANST footpath for the ANST MA is important for protection of the recreation (scenery) resource. However, to provide for the conservation of ANST qualities and values, a corridor with an extent of one-half mile on each side of the ANST needs to be established and managed for a Primitive or Semi-Primitive Non-Motorized ROS setting with limited inconsistency exemptions...*

*Naturally Evolving and Natural-Appearing Scenic Character allocations would provide for the nature and purposes of the ANST on the Nantahala-Pisgah NFs. The Forest Plan Scenic Character allocations need to be distinct and not apply to same locations within the ANST corridor. The biophysical and cultural attributes of the ANST corridor does not allow for multiple desired Scenic Character descriptions to be associated with the same specific area. In addition, it is not rational to have Naturally Evolving and Rural Pastoral Scenic Character allocations assigned to the same land area. Balds that are to be managed need to be mapped and displayed in the revised plan and used in the FEIS effects analysis...*

*Vegetation management must be consistent with Primitive or Semi-Primitive Non-Motorized ROS setting characteristics, with limited exceptions, if the nature and purposes of the ANST is to be realized...*

*Using the ANST travel route as a commercial road would always substantially interfere with the nature and purposes of the Appalachian National Scenic Trail...*

*Where congressional designations overlap, the most protective measures of the legislative mandates must control...*

*What is the Nantahala-Pisgah National Forest niche for protecting and contributing to the nature and purposes of the Appalachian National Scenic Trail? In consideration of the NPNF*

*landscape, Trails for America, Legislative History, National Trails System Act, Executive Orders and the National Park Service ANST Foundation Document, the nature and purposes desired condition description for the ANST Management Area could state, "The ANST route on the NPNF is for travel on foot through wild, scenic, wooded, and culturally significant landscapes. The corridor along this route is preserved for the conservation and enjoyment of nationally significant scenic, historic, natural, and cultural qualities. Motor vehicles are not present, except those that might be on existing passenger car roadways, at existing recreation sites, or being used to preserve a mountain bald landscape..."*

The following describes critical ANST Management Area plan components, as addressed in Draft Plan comments, that should be part of the Nantahala-Pisgah Forest Plan:

### **Desired Conditions**

*The ANST route on the NPNF is for travel on foot through wild, scenic, wooded, and culturally significant landscapes. The corridor along this route is preserved for the conservation and enjoyment of nationally significant scenic, historic, natural, and cultural qualities. Motor vehicles are not present, except those that might be on existing passenger car roadways, at existing recreation sites, or being used to preserve a mountain bald landscape. (ANST nature and purposes for the NPNF)*

*Scenic character is Naturally Evolving in wilderness and Natural-Appearing in other ANST Management Area landscapes. The Scenic Integrity Objective is Very High in wilderness and High in other management area landscapes, except in areas that are adjacent to existing roadways and developed sites.*

*Primitive or Semi-Primitive Non-Motorized settings are protected or restored, except in areas of existing more developed roadways, developed sites, and mountain balds.*

### **Standards**

*Manage the ANST route as a concern level 1 travel route. To provide for desired Scenic Character, management actions must meet a Scenic Integrity Level of Very High or High in the immediate foreground and foreground visual zones as viewed from the ANST travel route. Accepted inconsistencies are established recreational use developed sites and facilities, established permitted facilities, and activities as allowed by ANST vegetation management and other uses considerations plan components.*

*Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS class settings. Accepted Semi-Primitive Non-Motorized ROS class inconsistencies include existing operational maintenance level 3 and higher roads, recreation sites, and activities as allowed by ANST vegetation management and other use considerations plan components. Existing trail shelters, tent platforms, and privies*



that are found along the ANST travel route are compatible with the nature and purposes of the ANST. Where the ANST passes through recommended or designated wilderness management areas, the ROS setting is Primitive.

To protect the values for which the ANST was designated, resource uses and activities that could conflict with the nature and purposes of the ANST may only be allowed where there is a site-specific determination that the other use would not substantially interfere with the nature and purposes.

### **Suitability of Lands**

*Lands are not suitable for timber production. Timber harvest is not an objective."*

#### **d. FS Response to Comments**

**FS Description of the Comment:** AT-S-02 - should clearly state that "vegetation management actions must be consistent with Primitive or Semi-Primitive Non-Motorized ROS setting characteristics," while allowing for limited inconsistencies such as maintaining select balds.

**FS Response:** Desired ROS classifications have been mapped and added to the final Plan, along with direction that all proposed actions must be consistent with the corresponding desired ROS setting. (Page 151)

**Observation:** The response fails to address the expressed concern.

**FS Description of the Comment:** AT-S-06, regarding hauling or skidding with the AT Corridor MA, the standard should be edited to prohibit such activities if they interfere with the ANST.

**FS Response:** The standard has been revised to limit hauling or skidding in locations within the management area which are not visible from the trail. (Page 151)

**Observation:** The Forest Service fails to provide for ROS settings that are consistent with the nature and purposes of the ANST.

**FS Description of the Comment:** Roads should not be constructed within the ANST Management Area unless consistent with the nature and purposes of the ANST. Possibly, this guideline could describe that, "Roads should not be constructed within the ANST Management Area, unless allowed by a valid existing right. The purpose of this guideline is to protect the nature and purposes of the ANST by avoiding the construction of roads."

**FS Response:** This guideline was moved to a standard (Final Plan AT-S-05); Authorize new roads within the ANST corridor management area only if entering the management area is the only feasible and prudent location and the road is not visible from the ANST footpath or associated features. (Page 151)

**Observation:** The Plan fails to use the ROS planning framework to protect ANST qualities and values.

**FS Description of the Comment:** AT-S-02 - should clearly state that "*vegetation management actions must be consistent with Primitive or Semi-Primitive Non-Motorized ROS setting characteristics,*" while allowing for limited inconsistencies such as maintaining select balds.

**FS Response:** Desired ROS classifications have been mapped and added to the final Plan, along with direction that all proposed actions must be consistent with the corresponding desired ROS setting. (Page 151)

**Observation:** The Plan fails to use the ROS planning framework to protect ANST qualities and values.

**f. Violation of law, regulation, or policy:** USDA DR 1074-001, 16 U.S.C. § 1604(f)(1); 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR § 219.3, 36 CFR 219.7(e), 36 CFR § 219.10(a), 36 CFR § 219.10(b)(1)(i), and 36 CFR §§ 219.10(b)(1)(vi).

## Section II. Statement of Issues – FEIS

The following are statements of the issues to which the objection applies and concise statements explaining the objection and suggestions on how the FEIS may be improved. Submitted Draft Plan and DEIS comments are included in this objection as **Attachment A**.

### A. Terrestrial Ecosystems

**a. FEIS:** The FEIS on page 3-116 states, "*MA Group 2: Ecological Interest Areas, Appalachian Trail Corridor, National Scenic Byways, Heritage Corridors, Wild & Scenic Rivers, Experimental Forests, and Cradle of Forestry in America. In this management area group, active management is allowed consistent with the desired conditions of the management area but is expected to be less active than Group 1, with fewer tools available. This management area group is not suitable for timber production. Timber harvest is typically only allowed when it contributes to the recognized features of the area. For example, in the Ecological Interest Areas MA, timber harvesting and prescribed fire could be used to restore community composition, while in the Cradle of Forestry, silvicultural tools can only be used to demonstrate historical practices and provide educational opportunities. Road building is also limited to specific circumstances that are compatible with the unique features of the management areas. As a result, active management in this group is a moderate to low level of activity, compared to MA Group 1.*

*MA Group 3: Backcountry; Special Interest Areas; Roan Mountain. MA Group 3 involves primarily passive management where natural processes such as floods, storms, insects, disease, and fire shape the landscape. Prescribed fire is assumed to be the primary method of active restoration, occurring over large landscapes where possible and at varying intensities. Some timber management may occur, creating variable-sized gaps of young forest through tree*

*cutting, though the cutting, removal, and sale of timber is expected to be infrequent. Existing roads needed for general forest access are maintained, but new permanent road construction and reconstruction are limited. Overall, these management areas will experience a low level of active management.”*

**b. Issue and Statement of Explanation:** The National Trails System Act not only recognized an ANST footpath or treadway, but also establish direction to protect a corridor that surrounds the ANST travel route. Sections of the Act provide important guidance that is associated with the selection of the rights-of-way, planning, and management of the ANST, including direction stating: (1) The ANST corridor is to be preserved, *“to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas;”* (2) *“Avoiding, to the extent possible, activities along the National Scenic Trail that would be incompatible with the purposes for which the ANST was established;”* and (3) *“National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail.”*

**c. Proposed Solution to Improve the Decision:** The NPNF ANST Management Area should be in Group 3, which more accurately reflects the National Trails System Act for National Scenic Trails and desired Primitive and Semi-Primitive Non-Motorized ROS settings.

**d. Connection with Comments:** DEIS comments beginning on page 80 stating, *“MA Groups 3 and 4 more accurately reflects the desired conservation purposes of the ANST. MA Group 3 states in part that, “MA Group 3 involves primarily passive management where natural processes such as floods, storms, insects, disease, and fire shape the landscape. Prescribed fire is assumed to be the primary method of active restoration, occurring over large landscapes where possible and at varying intensities.” MA Group 4 states in part that, “MA Group 4 is dominated by passive management, except for minor instances where active management using prescribed burning would be desired for specific fire-adapted restoration priorities... Although it is possible to employ active management methods in this group, the tools that would be used are limited, such as restrictions on motorized equipment.” “Old growth patches are connected to each other with the most continuous connector being the Appalachian Trail (AT) which traverses south in the Nantahala NF through the Great Smoky Mountains National Park” (page 366). These characteristics of MA Groups 3 and 4 best reflect the nature and purposes of the ANST that states in part: The corridor along this route is preserved for the conservation and enjoyment of nationally significant scenic, historic, natural, and cultural qualities. The NPNF ANST Management Area should be in Group 3 or 4, which more accurately reflects the National Trails System Act for National Scenic Trails and desired Primitive and Semi-Primitive Non-Motorized ROS settings.”*

## e. FEIS Response to Comments

The Forest Service did not address this concern in response to comments.

**f. Violation of Law, Regulation or Policy:** 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.3, 219.10(a), 219.10(b)(1)(i), 219.10(b)(1)(vi); 40 CFR §§ 1502.15, 1502.16, 1508.7 (2005), 1508.8 (2005), 1502.24 (2005), 1502.23 (2020), 1503.4(a) (2005).

## B. Alternatives

**a. FEIS:** The FEIS on page 2-2 states, *“Alternative E, an additional alternative analyzed in detail, was added between the draft and final EIS., Alternative E makes iterative adjustments to the proposed plan and Alternatives B, C and D, because it was influenced by public comments received on the draft. Alternative E contains edited plan components (desired conditions, objectives, standards, guidelines), management area maps, and other plan content (management approaches, background). A summary of changes between Alternative E and the other action alternatives is discussed in this chapter and in Chapter 3. Edited changes are shown in grey highlights in the final plan so the public can focus on the changed content.”*

**b. Issue and Statement of Explanation:** The set of plan components must integrate social, economic, cultural, and ecological considerations. For example, the desired condition for a sustainable landscape must be developed in the context of the desired multiple uses for the landscape. When providing for desired multiple uses for an area, the plan must at the same time ensure that the uses will be managed sustainably, while providing for ecological sustainability.

The proposed Plan does not recognize the conservation purposes of the ANST. The ANST corridor is to be preserved for the conservation and enjoyment of nationally significant scenic, historic, natural, and cultural qualities. To provide for the conservation purposes of a National Scenic Trail the ANST corridor must provide for natural ecological processes and not just the visual appearance of naturalness.

The most important restoration need on the NPNF is to address environmental and economic issues that are associated with the miles of roads on the forest.

**c. Proposed Solution to Improve the Decision:** Modify the Appalachian National Scenic Trail corridor to include the area within 1/2 mile of the footpath, vistas, and other associated features. In addition, the proposed ANST plan components need to be modified as described in Section I Part C of this objection.

Recognize that to provide for the nature and purposes of the ANST the established ROS class should be a Primitive or Semi-Primitive Non-Motorized ROS setting. Any acceptable ROS inconsistency would be managed to minimize the influence of the nonconforming ROS indicator on the ANST desired ROS setting.

An effective approach to provide for ecosystem integrity is to restore roads that are located in established Semi-Primitive Non-Motorized ROS settings, which would include maintenance level 1 and 2 roads that are found in Backcountry and ANST Management Areas.

**d. Connection with Comments:** DEIS comments beginning on page 80. Comments state in part that, *“The Draft Plan and most DEIS alternatives may not protect Roadless Area Characteristics along the ANST segments that intersect Bald Mountain (Alternatives C & D), Cheoah Bald (Alternatives B, C, and D), and Wesser Bald (Alternatives C and D) Roadless Areas, since the proposed ANST plan components do not clearly protect Primitive and Semi-Primitive Non-Motorized settings along these segments of the ANST corridor. Wilderness evaluations should describe positive ANST benefits if roadless areas are recommended for wilderness designation. Management of recommended wilderness to protect wilderness characteristics support the conservation purposes of this National Scenic Trail and is harmonious with providing for the ANST nature and purposes.*

*The proposed action and alternatives do not provide necessary protections for the ANST corridor when associated with the Coweeta Experimental Forest Management Area. The ANST MA should extend one-half mile into and overlay the Experimental Forest MA. Management actions would then be constrained by the most restrictive management direction of the two MAs. At minimum, the Experimental Forest MA should have a standard that roads may not be constructed within one-half mile of the ANST travel route.*

*The proposed action and alternatives provide limited protection for the ANST corridor when associated with the Roan Mountain Management Area. The Roan Mountain MA desired condition describes that, “Within the foreground of the Appalachian Trail, the Roan Mountain area supports high quality outdoor recreation experiences and provides for the conservation and enjoyment of the nationally significant scenic, historic, natural, and cultural qualities of the land through which the Appalachian Trail passes...” To provide for the conservation of the nationally significant scenic, historic, natural and cultural qualities, the ANST corridor should extend to at least one-half mile from the ANST travel route regardless of the actual foreground visible distance. The ANST and Roan Mountain MAs should overlap where the most restrictive direction controls. At a minimum, the Roan Mountain MA should have a standard that roads may not be constructed within one-half mile of the ANST travel route...*

*An effective approach to provide for ecosystem integrity is to restore roads that are located in established Semi-Primitive Non-Motorized ROS settings, which would include maintenance level 1 and 2 roads that are found in Backcountry and ANST Management Areas. Every action alternative should include an objective to decommission, obliterate, and recontour with natural slopes many of the existing roads on the forest to address the minimum road system needed to meet desired conditions...*

*Recognizing issues associated with a sustainable road system, I am opposed to adopting TA-0-06: "No net decrease in the miles of open roads in Interface and Matrix over the life of the plan, and increase mileage of seasonally open roads in Interface and Matrix by between 5-10 percent over the life of the plan, prioritizing recreational access, such as hunting and fishing. Determine the amount of unneeded roads in Backcountry and decommission 10 percent over the life of the plan." It is unreasonable to commit to no net decrease in open roads and to increase seasonally open roads when expected CMRD budgets cannot sustain the road system. Open roads in the Backcountry MA is (or least should be) inconsistent with desired conditions. Roads within these MAs should be closed with blocked entrances as soon as possible and then be obliterated and recontoured with natural slopes restored. Decommissioning should not be limited to 10 percent, since in part total miles are yet to be described...*

*Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan. The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. The public, governmental entities and Forest Service employees need to know where plan components apply. The plan must indicate which plan components apply unit-wide, which apply to specific parcels of land, and which apply to land of specific character. Plans use management areas or geographic areas to apply plan components to specific mapped parcels of land."*

#### **e. FEIS Response to Comments**

**FS Description of the Comment:** The proposed action and alternatives do not provide necessary protections for the ANST corridor when associated with the Coweeta Experimental Forest Management Area. The ANST MA should extend one-half mile into and overlay the Experimental Forest MA. Management actions would then be constrained by the most restrictive management direction of the two MAs. At minimum, the Experimental Forest MA should have a standard that roads may not be constructed within one-half mile of the ANST travel route.

**FS Response:** A standard and a management approach were added to the Experimental Forest MA to clarify that the management in the Coweeta Experimental Forest must conform to Appalachian National Scenic Trail management area direction within the visible foreground up to 1/2 mile from the footpath, vistas, and other associated features. (Page 153)

**Observation:** The Plan fails to use the ROS planning framework to protect ANST qualities and values.

**FS Description of the Comment:** The proposed action and alternatives provide limited protection for the ANST corridor when associated with the Roan Mountain Management Area.

The ANST and Roan Mountain MAs should overlap where the most restrictive direction controls. At a minimum, the Roan Mountain MA should have a standard that roads may not be constructed within one-half mile of the ANST travel route.

**FS Response:** A standard was added to the Roan Mountain MA in the Final Plan (RM-S-01) which reads: "*Management of lands within the ANST and OMVNHT foreground (up to 1/2 mile) shall be consistent with direction found in the respective ANST and NHT management areas. Where management direction differs, the more restrictive direction applies.*" (Page 153)

**Observation:** The Plan fails to use the ROS planning framework to protect ANST qualities and values.

**f. Violation of Law, Regulation or Policy:** 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.3, 219.10(a), 219.10(b)(1)(i), 219.10(b)(1)(vi); 40 CFR §§ 1502.14, 1502.15, 1502.16, 1508.7 (2005), 1508.8 (2005), 1502.24 (2005), 1502.23 (2020), 1503.4(a) (2005).

### **C. Alternatives Eliminated from Detailed Study**

**a. FEIS:** The FEIS on page 2-2 states, "*Alternatives that do not benefit multiple interests were not considered in detail. The Forest Service ensured that alternatives designed to benefit a single interest at the expense of other multiple uses were eliminated from detailed study (see Alternatives Considered but Eliminated from Detailed Study).*"

The FEIS on page 2-28 states, "*NEPA requires Federal agencies to evaluate reasonable alternatives to the proposed action and to briefly discuss the reasons for eliminating any alternatives that were not developed in detail (40 CFR 1502.14). Public comments received in response to the proposed action provided suggestions for alternative methods of meeting the purpose and need, a number of which were considered. Some of these alternatives were eliminated from detailed study because they either did not meet the purpose and need and address one or more significant issues, were outside the scope of the forest plan, were financially or technologically infeasible, would result in unreasonable environmental harm, or were duplicative of the alternatives considered in detail. The rationale for eliminating potential alternatives from detailed consideration is summarized below...."*

**b. Issue and Statement of Explanation:** The ANST plan components do not protect the nature and purposes of the ANST from incompatible uses such as road construction and other development actions. The described plan components do not address the National Trails System Act requirements to provide for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.

**c. Proposed Solution to Improve the Decision:** The proposed ANST plan components need to be modified as described in Section I Part C of this objection.

**d. Connection with Comments:** DEIS comments beginning on page 85. Comments state in part that, *“The Draft Plan ANST plan components do not protect the nature and purposes of the ANST from incompatible uses such as timber harvest, road construction, and other development actions. The described plan components do not address the National Trails System Act requirements to provide for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2)) in a non-motorized setting (16 U.S.C. § 1246(c)). The proposed ANST plan components need to be modified as described in Chapter III part A, and many of the Draft Plan proposed incompatible components eliminated from any further detailed study...*

*The FEIS must eliminate DEIS described standards and guidelines that do not constrain project and activity decision-making to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements. For example, RM-S-03 states, “Restore and maintain openings and grassy and alder balds that species depend on using techniques such as prescribed burning, managed natural fire, mechanical treatment, herbicides, and browsers.” This standard does not constrain actions, which does not meet the definition of a standard.*

*In addition, the FEIS must only include guidelines where their intent is clear. Guidelines are mandatory constraints on project and activity decision-making that provide flexibility for different situations so long as the purpose of the guideline is met. For example, CDW-G-07 states that, “Locate planned and approved long distance trails outside of Wilderness unless there is no other feasible route.” The intent of this guideline is unclear. However, it suggests that National Scenic Trails are incompatible with the wilderness resource and that wilderness takes legal precedent. Instead, where congressional designations overlap, the most protective measures of the legislative mandates must control. This guideline is inconsistent with the National Trails System Act and needs to be deleted.”*

**b. FEIS Response to Comments:** The Forest Service did not address the concerns expressed in DEIS comments.

**f. Violation of Law, Regulation or Policy:** 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.3, 219.10(a), 219.10(b)(1)(i), 219.10(b)(1)(vi); 40 CFR §§ 1502.14, 1502.15, 1502.16, 1508.7 (2005), 1508.8 (2005), 1502.24 (2005), 1502.23 (2020), 1503.4(a) (2005).

## **D. Recreation Affected Environment**

**a. FEIS:** The FEIS beginning on page 3-465 states, *“The Recreation Opportunity Spectrum (ROS) provides managers a way to classify a range of recreation settings in which recreation opportunities (activities) occur. The unique combinations of recreation settings and opportunities provide for a broad range of visitor experiences across Geographic Areas. For example, mountain biking on single-track trails in a Semi-Primitive Non-Motorized setting of*



*Backcountry is a different experience than biking on paved pathways in the Rural setting of a developed campground, or a Roaded Natural setting on a forest development road. The unique geological and ecological characteristics of each Geographic Area further diversifies the range of potential recreation experiences. The ROS settings are classified into several categories: Primitive, Semi-Primitive Non-Motorized, Semi-Primitive Motorized, Roaded Natural, Rural, and Urban.*

*In Alternative A, the desired ROS settings were assigned by management area but were not mapped where multiple settings were identified within a management area. In Alternatives B, C, and D, a similar approach was used where the desired recreation settings were identified by management area and largely based on the ROS inventory. Acreage calculations for these alternatives considered both the inventoried ROS settings and management area mapping. The Primitive ROS setting was expanded to management area boundaries where managed for wilderness character or characteristics.*

*In Alternative E, the desired ROS settings were mapped in a GIS layer, available in the project record. The Alternative E desired ROS settings map was developed by combining the ROS inventory with management areas, and expanding Primitive settings to boundaries of designated wilderness, recommended wilderness, WSA, and WSR corridors classified as Wild. Lands within the remaining management areas were assigned desired ROS settings spatially based on a variety of considerations, including area characteristics, recreation opportunities, concentrated use areas, and other resource management objectives. A major part of those considerations were the inventoried ROS settings, which provided a spatial representation of remoteness, proximity to roads, and locations of other developed features. The process of developing the desired ROS settings map was also based on public comment and planning team input. The percentage of acres in Table 177 for each recreation setting in Alternative E is based on the desired ROS settings map (GIS layer)."*

**b. Background for Issue and Statement of Explanation:** The National Recreation Opportunity Spectrum Inventory Mapping Protocol dated August 2019 that is included as **Attachment C**<sup>4</sup> states, *"This National inventory protocol identifies mapping criteria and provides repeatable instructions to inventory, map, and classify existing Recreation Opportunity Spectrum (ROS) settings based on forest recreation opportunities and off-forest influences (e.g., motorized routes of other jurisdiction). The product is an existing condition inventory of ROS settings, mapped inconsistencies with those settings, and mapped unique or special opportunities. The settings mapped in this inventory protocol reflect travel management decisions. Inconsistencies with the mapped recreation opportunities may occur due to unauthorized or administrative uses. Inconsistencies with the existing ROS settings are documented in this process, but do not*

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<sup>4</sup> [https://www.fs.usda.gov/sites/default/files/Mapping\\_Protocol\\_Existing\\_Summer\\_ROS\\_vers1-2.docx](https://www.fs.usda.gov/sites/default/files/Mapping_Protocol_Existing_Summer_ROS_vers1-2.docx)

*change the overall ROS settings mapped and identified. Rather the inconsistencies are used with the ROS settings mapped in this process to provide an overall existing condition for ROS and help identify places that may need management actions to improve consistency with desired conditions...*

*Since the early 1980s, the Recreation Opportunity Spectrum (ROS) has been used as a framework to identify, classify, plan, and manage a range of recreation settings for both existing and desired conditions. ROS remains the best available framework for recreation planning. Six distinct settings: urban, rural, roaded natural, semi-primitive motorized, semi-primitive non-motorized, and primitive are defined using specific physical, social, and managerial criteria...*

*The physical characteristics are defined by the absence or presence of the sights and sounds of people, size, and the amount of environmental modification caused by human activity and authorized uses.*

*Remoteness - Remoteness from the sights and sounds of people is used to indicate greater or lesser amounts of social interaction and corresponding primitive to urban influences as one moves across the spectrum. The further one is from the sights and sounds of humans, the more remote the setting and more remote one feels. Remoteness is measured by the distance from motorized use on roads and trails.*

*Size - The size of an area is used to indicate greater or lesser potential for self-sufficiency related to a sense of vastness, where large, relatively undeveloped areas tend to provide a sense of vastness and smaller, developed areas less so as one moves across the spectrum.*

*Evidence of Humans - The evidence of humans criteria is used to indicate varying degrees of modifications to the natural landscape as one moves across the spectrum. Authorized uses affecting this criteria include such things as: vegetation treatments, oil and gas development, livestock grazing, recreation developments and other infrastructure.*

*Landscapes may vary from naturally appearing to heavily altered as one moves across the spectrum. Site management may also factor into this criteria. Site management refers to the amount or degree of on-site modification (e.g., vegetation manipulation, landscaping) and the level or scale of development of constructed features (e.g., parking areas, campgrounds, trails, administrative facilities, buildings and other structures) ...*

*Physical Characteristics - In previous mapping steps, the evidence of humans criteria was only applied to differentiate between Roaded Natural, Rural, and Urban ROS settings. In this step, the evidence of humans criteria may also be applied to Primitive, Semi-primitive Non-motorized and Semi-primitive Motorized settings to identify inconsistencies with those settings. The overall inventoried ROS setting will not be changed in Primitive, Semi-primitive Non-motorized and Semi-primitive Motorized settings, but will be mapped as an inconsistency....”*

**Issue and Statement of Explanation:** The Affected Environment did not describe the recreation settings of the area to be affected by the alternatives under consideration.

The recreation setting is the surroundings or the environment for the recreational activities. The planning rule describes that the recreation setting is the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorizes them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

The Recreation Opportunity Spectrum (ROS) provides a framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities. The 1982 ROS User Guide, 1986 ROS Book, and FSM 2310 (WO Amendment 2300-90-1) contained recreation resource policy and technical information that supported the planning rule and planning directives. To be consistent with the planning rule and recreation policy and research the Forest Plan must define and apply ROS principles that are consistent with the ROS planning framework which is the best available scientific recreation planning system. Most important is including ROS physical setting indicators when describing Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings.

The recreation opportunity spectrum provides a framework for integrating recreational opportunities and nonrecreational activities. The central notion of the spectrum is to offer recreationists alternative settings in which they can derive a variety of experiences. Because the management factors that give recreational value to a site are interdependent, management must strive to maintain consistency among these factors so that unplanned or undesired changes in the opportunities do not occur.

**c. Proposed Solution to Improve the Decision:** ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses and Evidence of Humans.

A Supplemental EIS should discuss recreation setting conditions and trends and identify contributing factors. Such information can provide a basis for considering how a changing, dynamic environment could affect conclusions that are reached regarding the environmental consequences of implementing any of the alternatives under consideration.

The affected environment serves as the baseline for predicting changes to the human environment that could occur if any of the alternatives under consideration. The affected environment is separate and distinct from the no-action alternative, which describes current management rather than the current state of affected resources, and discloses how the current condition of affected resources would change, if current management were to continue.

See Section 1 Part A - Recreation Opportunity Spectrum – of this objection.

**d. Connection with Comments:** DEIS comments beginning on page 86. Comments state in part that, *“Sustainable Recreation description as found in FSH 1909.12 parts 13.4 and 23.23a, and briefly describe how each ROS setting or class is defined by desired conditions and indicators. The description should include a discussion of changes to the inventoried ROS classes, since the existing Forest Plan was approved....”*

DEIS comments beginning on page 109 further state, *“The formulation and issuance of FSM 2310 (2300-2020-1) is not in compliance with the Public Participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216). The amended policy (2300-2020-1) is inconsistent with the 36 CFR § 219 forest planning regulations and the Planning Rule PEIS. FSM 2310 (2300-2020-1) policy should be reissued through a Federal Register Notice following 36 CFR § 216 public involvement processes to define the ROS classes as desired conditions, to include ROS Class Characteristics descriptors that address, in part, “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes. In addition, the formulation and issuance of any Recreation Planning Handbook should also follow 36 CFR § 216 public involvement processes.*

*Sustainable Recreation Planning directives must be consistent with the 1986 ROS User Guide and related research, which informed the Planning Rule. Forest Service directives must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making. This DR is intended to instill public confidence in USDA research and science-based public policymaking by articulating the principles of scientific integrity, including reflecting scientific information appropriately and accurately.”*

#### **e. FEIS Response to Comments**

**FS Description of the Comment:** Commenter requests edits to the description of sustainable recreation, a description of desired conditions and indicators as they relate to Recreation Opportunity Spectrum (ROS) settings; a discussion of the changes to the inventoried ROS classes; guidance included for sustainable recreation and how it relates to the requirement to address sustainable recreation resources....

**FS Response:** The definition of sustainable recreation was edited in the FEIS. A desired ROS map has been added, ROS settings definitions have been updated and Scenic Integrity Objectives definitions are consistent with the Forest Service Manual 2310 amendment. Additionally, desired scenic character and desired ROS setting have been included for all Management Areas. Corresponding changes/references will be made in the FEIS. Planners did not find it necessary to subdivide the Roaded Natural setting. A desired Scenic Character theme of Rural Forested is

included in the Plan. ROS itself is about recreation impacts from motorized use and infrastructure development.

**Observation:** The Forest Service failed to use the ROS planning framework, and be consistent with the ROS Book and Planning Rule and associated PEIS, in the development of the Forest Plan and EIS.

**f. Violation of Law, Regulation or Policy:** USDA DR 1074-001; 16 U.S.C. §§ 1604(f)(1), 1612(a); 36 CFR §§ 219.3, 219.10(a), 219.10(b)(1)(i); 40 CFR §§ 1502.14, 1502.15, 1502.24 (2005), 1502.23 (2020), 1503.4(a) (2005). Planning Rule PEIS.

## **E. Recreation Environmental Consequences**

**a. FEIS:** The FEIS on page 3-468 states, *“Alternatives B, D and E propose an increase in the number and acres of Recommended Wilderness, which are managed for a Desired Condition of Primitive ROS. These areas are characterized by an essentially unmodified natural environment where interaction between users is very low and evidence of other users is minimal. In these areas, visitors have opportunities to engage in primitive and unconfined recreation activities in settings that provide opportunities for solitude; and where visitors can practice self-reliance through application of outdoor skills in an environment that offers a high degree of challenge and risk. Alternative B would provide the greatest opportunity for visitors to experience Primitive recreation settings, Alternatives D and E would provide a moderate amount of acres, and Alternatives A and C would provide the fewest acres managed for Primitive ROS settings. It should be noted that Alternative C also allocates the most acreage to Backcountry management, which offers a similar Semi-Primitive Non-Motorized recreation setting, while Alternatives D and E strike a balance between Primitive and SPNM settings. Additional consideration of the effects of wilderness recommendation are described in section 3.4.7.”*

**b. Issue and Statement of Explanation:** The National Recreation Opportunity Spectrum Inventory Mapping Protocol adequately describes ROS setting characteristics; however, the FEIS recreation analysis framework allowed for incongruent physical, social, and operational components, so the NPNF process did not result in an effective approach for ensuring the integration of compatible resource allocations in land management planning.

The National Recreation Opportunity Spectrum Inventory Mapping Protocol improperly avoids assessing administrative and permitted roads. Impacts from ROS setting inconsistencies need to be addressed in the revised plan and FEIS. As stated in the protocol, *“Inconsistencies with the existing ROS settings are documented in this process, but do not change the overall ROS settings mapped and identified. Rather the inconsistencies are used with the ROS settings mapped in this process to provide an overall existing condition for ROS and help identify places that may need management actions to improve consistency with desired conditions.”* For example, in areas where timber production is a desired condition, the established ROS class should be a Roaded

Modified setting. Where a Semi-Primitive ROS setting is the desired condition, constructed roads should be decommissioned.

For established Semi-Primitive Non-Motorized ROS settings, the FEIS fails to review the effects of allowing administrative use on roads for the purpose of natural and cultural resource protection and management. Plans must include plan components to maintain or restore ecological integrity and recognize that roads degrade ecological conditions. Natural and cultural resource protection should be accomplished without utilizing roads in this ROS setting.

Backcountry Management Areas do not protect Semi-Primitive Non-Motorized ROS settings due in part to improper development permissions that are granted through standards and guidelines such as BAC-S-09. These permissions conflict with Semi-Primitive Non-Motorized ROS setting desired conditions. Plan components need to establish and protect Primitive and Semi-Primitive Non-Motorized ROS settings in this Management Area.

Timber production is incompatible with Semi-Primitive Motorized ROS setting desired conditions. The purpose of timber production is the purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use, which is in contrast and incompatible with protecting the naturalness and remoteness characteristics of the Semi-Primitive Motorized ROS class. The lasting effects of an activity (roads, timber harvest) as well as short-term effects (logging trucks, noise) degrade Semi-Primitive Motorized ROS setting characteristics. In areas of timber production, the spread of non-native and reoccurring harvests for timber purposes, stand tending, permanent and temporary road construction and reconstruction, travel route closures, and other activities are incompatible with the desired Semi-Primitive Motorized ROS settings. In areas where timber harvest with road access is desired, the appropriate ROS class designation is a Roaded Natural/Roaded Modified setting.

The FEIS recreation analysis should have reviewed the rationale and effects of allowing timber production, timber harvests, and road construction in Semi-Primitive ROS settings. Such actions are inconsistent with the ROS planning framework as referenced in the Planning Rule and used in the associated PEIS. Proposed vegetation management practices would result in a Roaded Modified ROS setting with effects that are not disclosed in the FEIS. Areas classified as suitable for timber production should be associated with 452,000 acres of Roaded Modified ROS class conditions for Alternative E.

**c. Proposed Solution to Improve the Decision:** ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses, Evidence of Humans, and Naturalness characteristics. Primitive and Semi-Primitive ROS classes must constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or

temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book and referenced in the planning rule PEIS are to be protected.

The EIS must identify the general extent and location of the temporary and permanent road system associated with more primitive ROS settings and provide a rational explanation of why these inconsistencies is to be allowed in these ROS classes. The NEPA document must disclose that timber production, extensive vegetation management, and supporting roads are incompatible with Primitive and Semi-Primitive ROS settings.

If a road was to be built for any reason in Primitive or Semi-Primitive ROS settings, plan components should require that the road be decommissioned with full obliteration, recontouring, and restoring natural slopes. Monitoring must ensure that surface areas are stabilized and revegetated with native plants.

See Section I Part A Subpart c.

**d. Connection with Comments:** DEIS comments on page 88 state, *“Each unique ROS class to be established for each alternative needs to be mapped, which did not occur for the DEIS. As such, the DEIS does not contain sufficient information to foster informed decision-making and informed public participation. The DEIS does not describe recreation effects following established ROS protocols as reviewed in Chapter III part B of these comments. In addition, the EIS must disclose effects of the proposed action and alternatives on ROS class conditions. Utilizing the ROS planning framework will help ensure that NEPA assessments are systematic and accurately describe the affected environment and expected outcomes from each alternative.*

*The following specific resource relationships should be described:*

- *Effects on the recreation resource for each alternative from Timber Harvest, Vegetation Management, Road Access and Infrastructure, Designated Trails, Fire and Fuels Management, and Mineral Resource Activities.*
- *Effects for each alternative of managing for the prescribed ROS classes on timber production, vegetation management, recreation management, wildlife management, wilderness, recommended wilderness, and fire management.*

*Backcountry Management Areas do not protect Semi-Primitive Non-Motorized ROS settings due to the development permissions that are granted through standards and guidelines. Plan components need to establish and protect Primitive and Semi-Primitive Non-Motorized ROS settings in this Management Area.”*

**e. FEIS Response to Comments:** The FEIS does address the issues and concerns expressed in comments on the DEIS.

**f. Violation of Law, Regulation or Policy:** USDA DR 1074-001; 36 CFR §§ 219.3, 219.7(e), 219.10(a), 219.10(b)(1)(i); 40 CFR §§ 1502.14, 1502.16, 1508.7 (2005), 1508.8 (2005), 1502.24 (2005), 1502.23 (2020), 1503.4(a) (2005). Consistency with the Planning Rule PEIS.

## **F. Appalachian National Scenic Trail Affected Environment**

**a. FEIS:** The FEIS does not review the ANST Affected Environment; however, page B-3 states, *“The Appalachian Trail management area is a long-distance hiking trail established by Congress in 1968 and managed jointly between the US Forest Service, the National Park Service, the Appalachian Trail Conservancy and local affiliated ATC hiking clubs. The management area consists of those lands mapped as the potentially visible foreground up to 1/4 mile on either side of the ANST footpath and associated features.”*

**b. Issue and Statement of Explanation:** The FEIS does not address the ANST Affected Environment. The Affected Environment did not describe the environment of the area to be affected by the alternatives under consideration. The affected environment section does not describe the degree to which ANST qualities and values are being protected, including the protection of desired cultural landscapes, recreation settings, scenic character, scenic integrity, and providing for conservation purposes along the existing NST travel route (16 U.S.C. § 1244(e). In addition, the status and condition of the rights-of-way was not described (16 U.S.C. § 1246(a)(2)).

**c. Proposed Solution to Improve the Decision:** The FEIS Affected Environment must describe the environment of the area to be affected by the alternatives under consideration. The Affected Environment section must describe the degree to which ANST qualities and values are being protected, including the protection of desired cultural landscapes, recreation settings, scenic character, scenic integrity, and providing for conservation purposes along the existing ANST travel route. In addition, the quality or condition of the ecological characteristics of the National Scenic Trail management corridor should be described.

The proposed action should be modified or an alternative developed where the ANST MA corridor extends to one-half mile on each side of the ANST route and be associated with revised plan components that provide for the nature and purposes of this National Scenic Trail.

A Supplemental EIS must address the ANST affected environment. The Forest Plan established ROS maps display sections of the ANST that are not being protected by either a Primitive or SPNM ROS setting allocation.

**d. Connection with Comments:** DEIS comments beginning on page 72. Comments state in part that, *“The affected environment serves as the baseline for predicting changes to the human environment that could occur if any of the alternatives under consideration, including the no-action alternative, are implemented. The affected environment is separate and distinct from the*



*no-action alternative, which describes current management rather than the current state of affected resources, and discloses how the current condition of affected resources would change, if current management were to continue.*

*The Interdisciplinary Team should identify and evaluate available information about designated areas including:*

- 1. Types, purposes, and locations of established designated areas within the plan area. The Responsible Official should use a map to identify these locations.*
- 2. Range of uses, management activities, or management restrictions associated with the established designated areas in the plan area.*
- 3. Existing plans for the management of established designated areas within the plan area, such as comprehensive plans for national scenic or historic trails.*

*The affected environment must describe the environment of the area to be affected by the alternatives under consideration. The affected environment section must describe the degree to which NST qualities and values are being protected, including the protection of desired cultural landscapes, recreation settings, scenic integrity, and providing for conservation purposes along the existing NST travel route (16 U.S.C. § 1244(e)). In addition, the status of the rights-of-way is to be described (16 U.S.C. § 1246(a)(2)). Furthermore, the quality or condition of the ecological characteristics of the National Scenic Trail management corridor should be described.*

*The NTSA states that, "National Scenic Trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2), and specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved...(16 U.S.C. § 1244(e))." Examples of conservation and preservation attributes that should be discussed in the Affected Environment section may include the presence of designated and recommended wilderness, roadless areas, and important wildlife habitat along the NST travel route...*

*The ANST corridor description should address not only the extent of the proposed ANST Management Area, but also a corridor with an extent of one-half mile on each side of the ANST travel route. This affected environment description would be supportive of the ANST Management Area extent that is proposed in Chapter III part A of these comments.*

*How are the mountain balds currently being managed along the ANST? The affected environment should describe that the NPNF does not have any range or pasture permits making the forest not amenable to offering rural pastoral scenic character landscapes. How many miles of roads are there in the ANST Management Area? How are the roads being managed?"*

## e. FEIS Response to Comments

**FS Description of the Comment:** The DEIS does not address the ANST affected environment including describing the status of providing for the nature and purposes qualities and values of this National Scenic Trail. For example, basic information is omitted such as, what is the length of the ANST travel route on the NPNF? How many acres are included in the ANST Management Area by alternative? How are the mountain balds currently being managed along the ANST? How many miles of road are within the MA? The affected environment should describe that the NPNF does not have any range or pasture permits making the forest not amenable to offering rural pastoral scenic character landscapes.

**FS Response:** The FEIS has been updated to include additional information about the ANST corridor MA. Rural pastoral and cultural/historic landscapes with pastoral character do exist on the Forest, and are maintained with mowing by force account, partnership, and contract. (Page 153)

**Observation:** The FEIS fails to address the ANST affected environment.

**FS Description of the Comment:** The proposed action should be modified or an alternative developed where the ANST MA corridor extends to one-half mile on each side of the ANST route with revised plan components.

**FS Response:** The ANST corridor is mapped as the visible foreground up to 1/2 mile on each side of the footpath and associated features based on a GIS bare ground visibility analysis using a DEM generated from the latest generation LiDAR. This was done in coordination with the ATC. (Page 153)

**Observation:** The Plan and alternatives fails to protect ROS settings along the ANST corridor that are consistent with the nature and purposes of this National Scenic Trail.

**f. Violation of Law, Regulation or Policy:** 16 U.S.C. § 1604(f)(1); 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.10(b)(1)(vi), 212 Subparts B and C; 40 CFR §§ 1502.14, 1502.15, 1502.24, 1503.4(a) (2005).

## G. Appalachian National Scenic Trail Environmental Consequences

**a. FEIS:** The FEIS does not review ANST Environmental Consequences; however, Table 177, on page 3-466, displays ROS class for each Management Area.

Alternative E ROS Setting Acres					
MA	Primitive	SPNM	SPM	RN	Rural
ANST	0	26,233	9,656	12,128	135

**b. Issue and Statement of Explanation:** The FEIS does not review the Environmental Consequences of the proposed action and alternatives on the ANST nature and purposes qualities and values.

The proposed Plan ANST plan components do not adequately protect the nature and purposes of the ANST from incompatible uses such as road construction, and other uses and developments. The described plan components do not address the National Trails System Act requirements to provide for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. The proposed ANST plan components, as addressed through NEPA alternatives, need to be modified to provide for the ANST qualities and values. Impacts to the ANST qualities and values from the proposed action and alternatives must be disclosed.

A minimum of 45 percent of the ANST management corridor is proposed to be managed for ROS settings that do not protect the nature and purposes of the ANST. Analysis of a ANST corridor with an extent of ½ mile from the ANST travel route would encompass many more acres that do not have established ROS settings that protect ANST qualities and values. The propose Plan ROS class allocation would lead to actions that substantially interfere with the ANST qualities and values, which would be inconsistent with the National Trails System Act.

The FEIS does not contain sufficient information to foster informed decision-making and informed public participation.

**c. Proposed Solution to Improve the Decision:** A Supplemental EIS needs to address the ANST environmental consequences.

Eliminate from consideration alternatives with extensive SPM and RN ROS setting allocations within the ANST corridor. The FEIS must address for each alternative how the land management planning decisions will achieve or contribute to:

- Providing for the nature and purposes of the National Trail, including protecting the National Trail resources, qualities, values, and associated settings;
- The quality or condition of the ecological characteristics that would occur within the National Scenic Trail management corridor;
- Ensuring carrying capacity is not exceeded; and
- Preventing other uses from substantially interfering with the nature and purposes of the National Trail.

A Supplemental EIS should include an ANST effects discussion that is like that presented for Wild and Scenic Rivers. The following specific resource relationships should be described:

- Effects for each alternative on the ANST nature and purposes from Recreation, Vegetation Management, Road Access and Infrastructure, Fire and Fuels Management, and Mineral Resource Activities.

- Effects for each alternative of providing for the ANST nature and purposes on timber production, vegetation management, recreation management, wildlife management, wilderness, recommended wilderness, roadless areas, and fire management.

**d. Connection with Comments:** DEIS comments beginning on page 74. Comments state in part that, *“The No Action alternative must explain how or if the requirements of the National Trails System Act will be addressed if No Action is the selected alternative. The National Scenic Trail rights-of-way that encompasses existing and high potential route segments, which is also known as the National Trail Management Corridor (16 U.S.C. § 1246(a)(2)) is the primary area for addressing the effects analysis. Effects on scenic integrity, ROS class conditions, and carrying capacities will generally be based on analysis of the effects of the allowable uses and conditions of use on NST qualities and values that are included in the proposed action and each alternative in the NEPA document. This outcome is also a specific decision aspect of the proposed action or alternatives. Utilizing ROS and Scenery Management system will help ensure that NEPA assessments are systematic and accurately describe the affected environment and expected outcomes from each alternative. The level of precision or certainty of the effects can be guided by the CEQ regulations regarding the use of “methodology and scientific accuracy” (40 CFR § 1502.24) and the information needed to support a reasoned choice among alternatives (40 CFR § 1502.22). Clearly document how the final decision is based on the best available science (36 CFR § 219.3), scientific accuracy, and other relevant information needed to understand the reasonably foreseeable adverse effects of a choice between alternatives, the gaps in that information, and the rationale for why a reasoned choice between alternatives can be made at this time. In addition, substantial interference analyses and determinations need to be rigorous and be addressed as part of the cumulative impact (40 CFR § 1508.7) and effects (40 CFR § 1508.8) analyses and disclosure.*

*Specific to National Scenic Trails, the NTSA states that, “National Scenic Trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2), and that comprehensive planning will describe specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved...(16 U.S.C. § 1244(e)).”*

*Management direction for Semi-Primitive Motorized, Roaded Natural, Rural, and Urban ROS classes allow uses that would substantially interfere with the nature and purposes of an NST if the allocation desired conditions are realized. Where the allowed non-motorized activities reflect the purposes for which the National Trail was established, the establishment of Primitive*

*and Semi-Primitive Non-Motorized ROS classes and high and very high scenic integrity allocations would normally protect the nature and purposes (values) of an NST...*

*The Draft Plan and DEIS do not establish plan components that demonstrate that the Appalachian Trail corridor [ANST MA] management is more restrictive. The ANST Management Area needs to establish a desired Scenic Character as Naturally Evolving or Natural-Appearing with an established Primitive or Semi-Primitive Non-Motorized ROS setting. The ANST Management Area should overlap with the Backcountry Management Area where the more restrictive plan components would control...*

*The DEIS does not review the environmental consequences of the proposed action and alternatives on the ANST nature and purposes qualities and values...*

*The EIS must disclose the competing nature of Natural-Appearing and Rural Pastoral Scenic Character allocations as proposed in the DEIS, and how these allocations are related to desired Primitive and Semi-Primitive Non-Motorized ROS settings along the ANST corridor. To understand effects, it is critical to see where ROS setting allocations are distributed throughout the ANST Management Area...*

*The Draft Plan ANST plan components do not adequately protect the nature and purposes of the ANST from incompatible uses such as timber harvest, road construction, and other uses and developments. The described plan components do not address the National Trails System Act requirements to provide for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2)) in a non-motorized setting (16 U.S.C. § 1246(c)). The proposed ANST plan components, as addressed through NEPA alternatives, need to be modified to provide for the ANST qualities and values.*

*Providing for the nature and purposes of the ANST normally includes providing for Primitive and Semi-Primitive Non-Motorized ROS settings and Scenic Character that is Naturally Evolving and Natural-Appearing. However, integrated resource management that addresses other resource needs can often occur if the use or activity does not substantially interfere with the nature and purposes of the ANST. These allowances can be described as allowed or unavoidable inconsistencies. Any recognized inconsistency adopted for the ANST Management Area should be reviewed in the Environmental Impact Statement documenting as appropriate that the inconsistency, "will not substantially interfere with the nature and purposes of the ANST."*

*For each alternative, the analysis of environmental effects needs to address how the land management planning decisions will achieve or contribute to:*

- Providing for the nature and purposes of the National Trail, including protecting the National Trail resources, qualities, values, and associated settings;*
- The quality or condition of the ecological characteristics that would occur within the*

- National Scenic Trail management corridor;*
- *Ensuring carrying capacity is not exceeded; and*
- *Preventing other uses from substantially interfering with the nature and purposes of the National Trail.”*

DEIS comments beginning on page 91 state, “*The DEIS does not review the environmental consequences of the proposed action and alternatives on the ANST nature and purposes qualities and values. However, in a footnote on page 31 the DEIS states, “The Appalachian Trail National Scenic Trail Historic Corridor will be managed comparably under all alternatives. Under alternative A, a smaller area was mapped in the forest plan than the area that is regularly considered in project design. The proposed plan in the action alternatives has been updated to incorporate the potential foreground acreage that is reviewed at the project level.” The acreage for Alternative A is 16,100 and Alternative B is 45,290.*

*The proposed action should be modified or an alternative developed where the ANST Management Area corridor extends to one-half mile on each side of the ANST route with revised plan components that are recommended in Chapter III part A of these comments.*

*The EIS must disclose the competing nature of Natural-Appearing and Rural Pastoral Scenic Character allocations as proposed in the DEIS, and how these allocations are related to desired Primitive and Semi-Primitive Non-Motorized ROS settings along the ANST corridor. To understand effects, it is critical to see where ROS setting allocations are distributed throughout the ANST Management Area. It does not suffice to simply suggest that somewhere in the Management Area there are:*

- *Desired Landscape Character of Natural Evolving, Natural-Appearing, Rural Pastoral, and Cultural/Historic areas, and*
- *That recreation opportunities are predominately in Semi-Primitive Non-Motorized ROS settings. However, where the ANST crosses roads or passes by developed sites, the setting may be Semi-Primitive Motorized, Roaded Natural or Rural.*

*The ANST discussion should be similar to that presented for Wild and Scenic Rivers in section 3.4.9. The following specific resource relationships should be described:*

- *Effects for each alternative on the ANST nature and purposes from Recreation, Vegetation Management, Road Access and Infrastructure, Fire and Fuels Management, and Mineral Resource Activities.*
- *Effects for each alternative of providing for the ANST nature and purposes on timber production, vegetation management, recreation management, wildlife management, wilderness, recommended wilderness, roadless areas, and fire management.*

*The cumulative effects analysis area should include the federally managed lands along the ANST in the Southern Region of the Forest Service and describe the degree to which Forest Plans have protected ANST nature and purposes qualities and values.*

*The DEIS failed to address the ANST environmental consequences of the proposed action and alternatives. The DEIS does not contain sufficient information to foster informed decision-making and informed public participation. A Supplemental DEIS needs to address the ANST environmental consequences following processes described in Chapter IV part F of these comments. It appears that the ANST nature and purposes are not protected by current and proposed plan components.”*

#### **e. FEIS Response to Comments**

The FEIS does address the issues and concerns expressed in comments on the DEIS.

**f. Violation of Law, Regulation or Policy:** 16 U.S.C. § 1604(f)(1); 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.10(b)(1)(vi), 212 Subparts B and C; 40 CFR §§ 1502.14, 1502.16, 1502.24, 1503.4(a) (2005), 1508.7 (2005), 1508.8 (2005).

#### **H. Transportation and Access**

**a. FEIS:** The FEIS beginning on page 3-492 states, *“Forest management activities significantly affecting the transportation system are road construction, reconstruction, maintenance, and decommissioning. Road construction and reconstruction is typically related to timber harvest needs and providing adequate access on newly acquired parcels...*

*Changes to the forest transportation system were evaluated based on plan direction and management area allocations in each alternative that would influence future motorized access on the National Forest. Impacts on and from roads vary according to traffic use and volume, location, maintenance frequency, surfacing quality, soil type, road-surface shape, and drainage patterns, and site specific considerations will be evaluated in future project level NEPA.*

*This analysis assumed reduced mileage of National Forest System roads would generally equate to increased opportunity for primitive recreation and decreased motorized access and ecological impacts from roads. The ecological consequences of closing, decommissioning, and naturalizing roads generally results in increased wildlife habitat connectivity, reduced sedimentation and impacts to plants and archaeological sites, decreased vandalism and theft at archaeological sites, reduced dumping, and less noise disturbance to wildlife. The precise magnitude and location of these impacts, however, is too complex to determine at the plan scale because the effectiveness of achieving these impacts is largely dependent on site-specific situations and design features...*

*Currently, road decommissioning is determined on a case-by-case basis with consideration for long-term needs of the route, the desired recreation opportunity spectrum (ROS) associated*

*with the management area, and the need to obliterate unauthorized routes on the National Forest lands. Road decommissioning would also be expected to continue at existing rates...*

**Alternatives B, C, D, and E** - *Table 194 shows how the alternatives compare in terms of the total acreage of Backcountry and Recommended Wilderness to which this direction would apply and the associated existing road mileage in these MAs that could be affected if roads are determined to be unneeded and inconsistent with the desired conditions of the management area. While Alternative B recommends considerably more acres for wilderness, much of this area is unroaded and largely inaccessible by motorized vehicles. In contrast, the Backcountry MA in Alternative C has approximately 100 miles of existing road, some of which would be considered for decommissioning in a Tier 2 objective (TA-O-06). Alternative D has the least number of acres in Backcountry and Recommended Wilderness and the least amount of road miles that could be considered for decommissioning...*

*Projected miles of total road construction for the action alternatives are based on SPECTRUM modeling which estimated lands currently available and required for future vegetation management activities, the current transportation network, and operability criteria... Most new road mileage would consist of temporary roads not to be included in the Forest transportation atlas."*

**b. Issue and Statement of Explanation:** Table 194 – Miles of Road (Open and Closed) in Backcountry and Recommended Wilderness MAs, by Alternative – should have included a listing of the existing road miles that are in the ANST Management Area and established Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings.

The proposed Plan and alternatives do not recognize the conservation purposes of the ANST. To provide for the conservation purposes of a National Scenic Trail the ANST corridor must provide for natural ecological processes and not just the visual appearance of naturalness. The National Trails System Act not only established an ANST footpath or treadway, but also direction to protect the corridor that surrounds the travel route. Sections of the Act provide additional important guidance that is associated with the selection of the rights-of-way, planning, and management of the ANST, including direction stating: (1) The ANST corridor is to be preserved, *"to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas;"* (2) *"Avoiding, to the extent possible, activities along the National Scenic Trail that would be incompatible with the purposes of the NST for which it was established;"* and (3) *"National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail."*



The FEIS failed to take a hard look at existing and potential roads in the ANST Management Area, in areas of highly erosive soils, and in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings. NEPA reviews must take a “hard look” at impacts that alternatives under consideration would have on the human environment if implemented. This means that there must be evidence that the agency considered all foreseeable direct, indirect, and cumulative impacts, used sound science and best available information, and made a logical, rational connection between the facts presented and the conclusions drawn. Analyzing impacts means considering how the condition of a resource would change, either negatively or positively, as a result of implementing each of the alternatives under consideration. A written impact analysis should: (1) describe the impacts that each of the alternatives under consideration would have on affected resources; (2) use quantitative data to the extent practicable; (3) discuss the importance of impacts through consideration of their context and intensity; and (4) provide a clear, rational link between the facts presented and the conclusions drawn.

#### **c. Proposed Solution to Improve the Decision:**

Modify the Appalachian National Scenic Trail corridor to include the area within 1/2 mile of the footpath, vistas, and other associated features. In addition, the proposed ANST plan components need to be modified as described in Section I Part C of this objection.

A Supplemental EIS should expand Table 194 to include existing road miles that are in the ANST Management Area and established Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings.

The effects analysis must disclose the impacts of existing roads on Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS setting desired conditions.

Recognize that to provide for the nature and purposes of the ANST the established ROS class should be a Primitive or Semi-Primitive Non-Motorized ROS setting. Any acceptable ROS inconsistency would be managed to minimize the influence of the nonconforming ROS indicator on the ANST desired ROS setting.

An effective approach to provide for ecosystem integrity is to restore roads that are located in established Semi-Primitive Non-Motorized ROS settings, which would include maintenance level 1 and 2 roads that are found in Backcountry and ANST Management Areas.

**d. Connection with Comments:** Draft Plan and DEIS comments on pages 47, 59, 64, 65,71, 75, 79, 81, 82, 91, 92, and 93. Comments state in part that, “NEPA is “our basic national charter for protection of the environment” (40 C.F.R. 1500.1(a)). Better analysis and decisions are the ultimate goal of the NEPA process (40 CFR § 1500.1(c)). NEPA’s twin aims are to ensure that federal agencies take a hard look at the environmental impacts of their proposed actions before taking an action and to ensure that agencies provide relevant information to the public so the

*public can play a role in both the decision-making process and the implementation of the decision (40 C.F.R. 1502.1). By focusing the agency's attention on the environmental consequences of its proposed action, NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after an agency has committed resources (42 U.S.C. § 4332(2)(C))...*

*The established ROS allocations must be mapped displaying each ROS class uniquely (individually). The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorizes them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban. A Semi-Primitive Non-Motorized ROS setting provides for appropriate ANST qualities and values. However, allowing all activities that could occur in a Roaded Natural or Rural ROS setting does not protect the ANST nature and purposes. The ANST MA should establish Primitive and Semi-Primitive Non-Motorized ROS settings, while allowing for some ROS setting inconsistencies...*

*Roads should not be constructed within the ANST Management Area unless consistent with the nature and purposes of the ANST. Possibly, this guideline could describe that, Roads should not be constructed within the ANST Management Area, unless allowed by a valid existing right. The purpose of this guideline is to protect the nature and purposes of the ANST by avoiding the construction of roads...*

*The revised plan must manage ecosystems, protect Inventoried Roadless Areas, and protect congressionally established designated areas for the purposes for which they were established. In this regard, I support closing and restoring most of the roads that are found in Inventoried Roadless Areas, Backcountry Areas, and along the ANST...*

*The most important restoration need on the NPNF is to address environmental and economic issues that are associated road miles on the forest... I recommend that an alternative be developed that reclaims 200 miles of system roads that are located in highly erosive soils.*

*An effective approach to provide for ecosystem integrity is to restore roads that are located in established Semi-Primitive Non-Motorized ROS settings, which would include maintenance level 1 and 2 roads that are found in Backcountry and ANST Management Areas. Every action alternative should include an objective to decommission, obliterate, and recontour with natural slopes many of the existing roads on the forest to address the minimum road system needed to meet desired conditions...*

*How many miles of roads are there in the ANST Management Area? How are the roads being managed? ... The Draft Plan ANST plan components do not adequately protect the nature and purposes of the ANST from incompatible uses such as timber harvest, road construction, and other uses and developments...."*

#### **e. FEIS Response to Comments:**

**FS Description of the Comment:** Roads should not be constructed within the ANST Management Area unless consistent with the nature and purposes of the ANST. Possibly, this guideline could describe that, "Roads should not be constructed within the ANST Management Area, unless allowed by a valid existing right. The purpose of this guideline is to protect the nature and purposes of the ANST by avoiding the construction of roads."

**FS Response:** This guideline was moved to a standard (Final Plan AT-S-05); Authorize new roads within the ANST corridor management area only if entering the management area is the only feasible and prudent location and the road is not visible from the ANST footpath or associated features.

**Observation:** The Plan fails to use the ROS planning framework to protect ANST qualities and values.

**FS Description of the Comment:** Commenters requested the plan recognize that timber production and associated actions are not aligned with some ROS classes, including Primitive, Semi-Primitive Non-Motorized (SPNM) and Semi-Primitive Motorized (SPM) ROS classes. They add timber harvest is not an objective for the Appalachian National Scenic Trail (ANST) and Backcountry Management Areas.

**FS Response:** A forestwide standard states that timber production will not be the primary purpose for projects and activities and shall complement the ecological restoration desired conditions and objectives. The desired ROS setting for Matrix management area, which is the largest area suitable for timber production, does not include desired Semi-Primitive Non-Motorized ROS settings. There are some desired SPNM settings in Interface, but they are generally in inaccessible areas, such as islands in reservoirs or shorelines where timber production is not likely to occur. After review of policy and the ROS User's Guide, it was confirmed that management of Semi-Primitive Motorized settings is not inconsistent with activities potentially occurring on lands suitable for timber production; especially if Scenic Integrity Objectives are being met. The ROS User's Guide and Forest Service Manual 2310 amendment say SPM settings are (predominately) natural or natural-appearing and the guide says they may have moderately dominate alterations. Neither says SPM settings do not allow timber production. For the other comments regarding the ANST, Plan components were updated to emphasize vegetation management for purposes benefitting the ANST experience and values. Timber harvest is allowed and appropriate in the ANST management area to maintain or enhance ANST values or visitor experience, and revised components were drafted in coordination with Appalachian Trail Conservancy and National Park Service.

**Observation:** The statement that, “Neither says SPM settings do not allow timber production” lacks scientific integrity and is not associated with an analysis that utilizes the best available scientific information.

The Semi-Primitive Motorized ROS class is described in the ROS Book on page II-32 stating, “Area is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size.” Page II-33 states, “Moderate probability of experiencing isolation of the sights and sounds of humans.” Page IV-6 states, “An area designated within ½-mile of primitive roads<sup>5</sup> or trails used by motor vehicles; but not closer than ½-mile from better than primitive roads.” Page IV-10 states, “Natural setting may have moderately dominant alterations but would not draw the attention of motorized observers on trails and primitive roads within the area.”

Equally important is that timber production and associated roads in Semi-Primitive Motorized ROS settings would degrade adjacent Semi-Primitive Non-Motorized ROS settings. The ROS Book on page IV-6 describes that a SPNM inventoried area is “at least ½-mile but not further than 3 miles from all roads, railroads or trails with motorized use; can include the existence of primitive roads and trails if usually closed to motorized use.”

This response appears to rely on the ill-conceived 2020 FSM 2310 amendment. An example of a consequence if FSM 2310 (2300-2020-1) definitions are applied to plan components is that established Semi-Primitive Motorized ROS physical characteristics may be indistinguishable from a Roaded Modified ROS setting.

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book ROS setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings.

The formulation and issuance of FSM 2310 (2300-2020-1) is not in compliance with the Public Participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216). The amended policy (2300-2020-1) is inconsistent with the 36 CFR § 219 forest planning regulations and the Planning Rule PEIS.

**FS Description of the Comment:** The NPNF ANST Management Area should be in Management Area Group 3 or 4, as opposed to Group 2 as described in the DEIS. Groups 3 and 4 more accurately reflect the National Trails System Act for National Scenic Trails and desired Primitive and Semi-Primitive Non-Motorized ROS settings.

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<sup>5</sup> “Primitive roads” are not constructed or maintained, and are used by vehicles not primarily intended for highway use (1982 User Guide and 1986 ROS Book).

**FS Response:** ANST Plan components were revised with input from ATC and NPS. Revised components are consistent with adjacent NF Plans for road and vegetation management. Vegetation management is allowed within the AT MA to enhance the ANST environment or user experience.

**Observation:** Responses to comments failed to address comments submitted on the Draft Plan and DEIS. The FEIS failed address the cumulative impacts of NPNF proposed plan and adjacent Forest Plan direction that does not protect the nature and purposes of the ANST. Plan components do not reflect the statement that, “*Vegetation management is allowed within the AT MA to enhance the ANST environment or user experience.*”

**f. Violation of Law, Regulation or Policy:** 16 U.S.C. § 1604(f)(1); 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.10(b)(1)(i), 219.10(b)(1)(vi), 212 Subparts B and C; 40 CFR §§ 1502.14, 1502.16, 1502.24, 1503.4(a) (2005), 1508.7 (2005), 1508.8 (2005).

## **I. ROS Analysis Methods**

**a. FEIS:** The FEIS on page B-35 states, “*The desired Recreation Opportunity Settings for each management area was calculated through the use of GIS analysis. The foundation of this work started with the Nantahala and Pisgah National Forests ROS Inventory, which was completed in 2014 and followed the National ROS Inventory Mapping Protocol. As the ROS Inventory was mapped based on the physical, social, and managerial settings prior to the completion of management area mapping under the new Nantahala-Pisgah Forest Plan Revision, this data needed to be updated to reflect the desired conditions for the new management areas.*

*The first step to create the ROS desired conditions map was to update the Inventory to reflect land that was acquired after the Inventory was completed. Following this, the updated ROS Inventory was intersected with the management areas mapped across each alternative and new acreage counts were calculated; this was performed using the Intersect tool in GIS, which calculates the geometric intersection of multiple feature classes. The output dataset calculated the number of acres of each ROS setting by management area, which was used to describe the ROS desired conditions across all management areas.”*

**b. Issue and Statement of Explanation:** Inventoried ROS setting conditions do not protect the desired conditions of the Appalachian National Scenic Trail management corridor and Semi-Primitive Motorized ROS settings from the effects of road construction and reconstruction.

**c. Proposed Solution to Improve the Decision:** See Section I Part A Subpart c, and Section I Part C Subpart c of this objection.

**d. Connection with Comments:** DEIS comments beginning on page 93. Comments state in part that, “*Recreation Opportunity Spectrum classes to be established must be informed by the best available ROS inventory data. However, the ROS class desired conditions to be established is not*

*bound by the inventory information. For example, the inventory along the ANST may indicate a Roaded Natural condition; however, to provide for the nature and purposes of the ANST the established ROS class should be a Semi-Primitive Non-Motorized ROS setting. Any ROS inconsistency could then be managed to minimize the influence of the nonconforming ROS indicator on the desired ROS setting. GIS data for ROS classes to be established is unavailable as confirmed through a recent FOIA request (FOIA Request #2020-FS-R8-02650-F), so the analysis description does not appear to match the reality of the actual planning analyses.”*

#### **e. FEIS Response to Comments**

The Forest Service did not address submitted DEIS comments.

**f. Violation of Law, Regulation or Policy:** USDA DR 1074-001, 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.10(b)(1)(vi), 36 CFR § 219.3, 40 CFR §§ 1502.24 (2005), 1502.23 (2020). In addition, see **Appendix A** of this objection.

### **Section III. Statement of Issues Draft ROD**

The following are statements of the issues to which the objection applies and concise statements explaining the objection and suggestions on how the proposed decision may be improved.

#### **A. Rationale for the Decision**

**a. Draft ROD:** The Nantahala and Pisgah DROD on page 19 states, *“Alternative E recognizes the balance of both active and passive management in managing these forests. In the birthplace of modern forestry practices in North America, this alternative sets objectives for natural resource professionals to increase the pace and scale of restoration through silviculture and fire practices. At the same time, Alternative E recommends some large undeveloped areas for wilderness, recognizing their historical, scientific, educational, geologic, and ecological benefits and also providing more opportunities for solitude and retrospective or primitive recreation.*

*Alternative E focuses on sustainable recreation, recognizing more explicitly than other alternatives that there are some known locations where our trail system does not meet the public demand, and takes steps to address the issue collaboratively. The Alternative E plan direction on sustainable trails will ensure the forest is not only using the latest trail design principles but also emphasizes working with recreation clubs, volunteer groups, and others to help in long-term trail maintenance and recreation management planning, which is key to continuing to provide a quality experience for increased visitors in the years to come.”*

**b. Issue and Statement of Explanation:** The revised plan does not include plan components to provide for sustainable recreation as required by the Planning Rule and associated directives. The plan does not include specific standards or guidelines where restrictions are needed to ensure the achievement or movement toward the desired Recreation Opportunity Spectrum

classes. Development restrictions are needed in Primitive and Semi-Primitive ROS settings to ensure that desired conditions are realized.

The Nantahala and Pisgah Plan definitions of ROS setting plan components do not include ROS class descriptions that address Evidence of Humans desired conditions. For example, the SPNM ROS setting no longer describes that, *“Natural setting may have subtle modifications that would be noticed, but not draw the attention of an observer wandering through the area.”* The FEIS fails to disclose the competing nature of the desire to maintain a natural setting with little evidence of management with the negative effects of mechanical treatment of vegetation and associated permanent and temporary roads.

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings for each alternative.

*“The recreation opportunity spectrum has been an effective land management planning tool since 1982. The recreation opportunity spectrum is a framework for identifying, classifying, planning, and managing a range of recreation settings. The setting, activity, and opportunity for obtaining experience are arranged along a spectrum of classes from primitive to urban. In each setting, a range of activities is accommodated. For example, primitive settings accommodate primarily non-motorized uses, such as backpacking and hiking; whereas roaded settings (such as roaded natural) or rural settings accommodate motorized uses, such as driving for scenery or access for hunting. Through this framework, planners compare the relative tradeoffs of how different patterns of settings across the landscape would accommodate (or not accommodate) recreational preferences, opportunities, and impacts (programmatic indirect environmental effects) with other multiple uses”* (Planning Rule PEIS, page 209).

ROS settings is an appropriate and efficient management tool to provide for integrated resource management where compatible multiple use benefits accrue in an established ROS setting. However, Primitive and Semi-Primitive ROS classes will constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book are to be protected.

Making choices between competing resource priorities is often the nature of integrated resource management planning as required by the National Forest Management Act (16 CFR § 1604(f)(1), 36 CFR § 219.10(a), FSH 1909.12 Part 22). The ROD decision must make choices for each alternative between competing resources, including establishing desired ROS settings to accurately reflect integrated resource decisions for each ROS class mapped area.

**c. Proposed Solution to Improve the Decision:** See Section I Part A Subpart c, Section I Part B Subpart c, and Section I Part C Subpart c of this objection.

**d. Violation of Law, Regulation or Policy:** USDA DR 1074-001; 16 U.S.C. § 1612(a); 36 U.S.C. §§ 216, 219.3, 219.7, 219.10(b)(1)(i); 40 CFR §§ 1502.24, 1503.4(a) (2005). The APA ensures that agencies do not change course based on the “*whim and caprice of the bureaucracy*,” and prevents agencies from subverting the rule of law by making policy based on shifting “*political winds and currents*.” When reversing a prior policy that “*has engendered serious reliance interests*,” the agency must “*provide a more detailed justification than what would suffice for a new policy created on a blank slate*.” This requires a “*reasoned explanation... for disregarding the facts and circumstances that underlay or were engendered by the prior policy*.”

## **B. Alternatives Considered**

**a. Draft ROD:** The Nantahala and Pisgah DROD beginning on page 46 states, “*The plan direction for Alternative A is reflected in the current forest plan as amended. The plan direction for Alternatives B, C, and D is reflected in the proposed plan that accompanied the DEIS. Differences between plan direction for Alternatives B, C, and D (for plan components ECO-S-28, REC-S-14, REC-O-07) are explained within the proposed plan itself on the appropriate page for each plan component. The plan direction for Alternative E is the final plan that accompanies this FEIS.*

*Differences in proposed land allocations can be seen by reviewing the accompanying set of maps. Forestwide maps that can be used to coarsely compare alternatives are available in Appendix I, although the more detailed set of maps should be reviewed to compare specific locations, as the small maps in this chapter do not capture the full degree of detail.”*

**b. Issue and Statement of Explanation:** The ANST corridor and plan components presented in Draft Plan and DEIS comments should have been rigorously explored and objectively evaluated, since the submitted proposed alternative/modified plan components is a reasonable approach to protecting the nature and purposes of the ANST.

The agency should have assessed and considered comments both individually and collectively, and responded by modifying alternatives including the proposed action or develop and evaluate alternatives not previously given serious consideration to address substantive concerns. Preferably alternatives would have been modified to (1) establish a ANST management corridor with an extent of one-mile with supportive plan components and (2) supplemented ROS definitions to reflect the guidance in the 1986 ROS Book. Otherwise, these proposed changes that were not previously given serious consideration should have been addressed in a new alternative.

NEPA requires agencies to consider a reasonable range of alternatives. Agencies must, to the fullest extent possible, include “*reasonable alternatives to proposed actions that will avoid or*



*minimize adverse effects of these actions upon the quality of the human environment.”* The EIS must also state how the alternatives considered will meet both NEPA and other environmental laws and policies, including the National Trails System Act, and must discuss rational reasons for eliminating any alternatives from detailed study.

The Forest Service did not consider a reasonable range of alternatives in the FEIS because the Forest Service failed to consider an alternative or alternatives that had the potential to reduce the adverse effects on the Appalachian National Scenic Trail and better protect the purposes for which this National Scenic Trail was established.

**c. Proposed Solution to Improve the Decision:** Establish an ANST Management Area with plan components that protect the nature and purposes of the ANST. See Section I Part C of this objection.

**d. Violation of Law, Regulation or Policy:** 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); E.O. 13195; 42 U.S.C. § 4332(2)(C); 40 C.F.R. §§ 1500.2(e), 1502.1, 1502.2(d), 1502.14, 1502.16, 1503.4(a) (2005), 1508.7; 36 CFR § 219.3; USDA DR 1074-001.

### **C. Best Available Scientific Information**

**a. Draft ROD:** The Nantahala and Pisgah DROD on page 60 states, *“The 2012 Planning Rule (§219.6(a)(3) and 219.14(a)(4)) requires the responsible official to document how the best available scientific information (BASI) was used to inform the assessment, the plan decision, and the monitoring program. Such documentation must identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered...”*

*Developing the land management plan, plan components, monitoring program, and Environmental Impact Statement was an iterative process using best available scientific information. An interdisciplinary team of resource specialists from the Forest Service, worked with specialists in their respective fields from the National Forest System, the USDA Southern Research Station, universities, other governments (tribal, federal, state and local), and non-governmental organizations such as but not limited to The Nature Conservancy provided expertise to identify and use scientific information that was accurate, reliable, and relevant to the Nantahala and Pisgah National Forests. This information includes material readily available through peer-reviewed sources (research institution publications and technical reports, scientific journals, and online literature). It also includes information obtained from other sources, such as participation and attendance at scientific conferences, scientific knowledge from local experts, findings from ongoing research projects, workshops and collaborations, professional knowledge and experience, and information received during public participation periods.”*

**b. Issue and Statement of Explanation:** Best available scientific information analyses would have required using ROS plan components that were consistent with the 1986 ROS Book, which the plan did not use in its formulation.

The Plan definition of the ROS Class desired conditions must include ROS Class characteristics descriptors that address, “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resource planning processes.

Sustainable Recreation Planning direction must be consistent with the 1986 ROS Book and related research, which informed the Planning Rule. Forest Service directives (and policy by correspondence) must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making. This DR is intended to instill public confidence in USDA research and science-based public policymaking by articulating the principles of scientific integrity, including reflecting scientific information appropriately and accurately.

Modifying ROS characterizations to facilitate development of unroaded areas without demonstrating a clear basis for deviating from the 1986 ROS Book is unreasonable, arbitrary, and capricious and is inconsistent with the MUSYA, NFMA, and NEPA.

**c. Proposed Solution to Improve the Decision:** See Section I Part A Subpart c, Section I Part B Subpart c, and Section I Part C Subpart c of this objection.

**d. Violation of Law, Regulation or Policy:** USDA DR 1074-001, 16 U.S.C. § 1612(a), 36 U.S.C. § 216, 36 CFR § 219.3, 40 CFR §§ 1502.24 (2005), 1503.4(a) (2005); Consistency with the Planning Rule PEIS.

## **D. Multiple-Use Sustained-Yield Act**

**a. Draft ROD:** The Nantahala and Pisgah DROD beginning on page 75 states, *“The Forest Service manages National Forest System lands to sustain the multiple use of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Resources are managed through a combination of approaches and concepts for the benefit of human communities and natural resources. As demonstrated in the final EIS and as required by the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528-531), the land management plan guides sustainable and integrated management of Forest resources in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas. Therefore, I find that the land management plan is compliant with the Multiple-Use Sustained-Yield Act.”*

**b. Issue and Statement of Explanation:** Alternatives in the FEIS do not protect ANST nature and purposes qualities and values with supporting plan components failing to produce an

integrated plan. The characterizations of ROS classes in many cases are a significant deviation from established Physical Setting descriptions. “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” setting indicators are improperly omitted in the narratives for Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings. The proposed ROS plan components must be consistent with the 1986 ROS Book, which supported the planning rule as informed by the PEIS.

The structure of the Planning Regulations and Directives provide for the integration of statutorily designated areas as a multiple use component. ANST and ROS plan components are not integrated, written clearly, concisely, and without ambiguity. Some standards and guidelines inappropriately described permissions instead of constraints.

**c. Proposed Solution to Improve the Decision:** See Section I Part A Subpart c, Section I Part B Subpart c, and Section I Part C Subpart c of this objection.

**d. Violation of Law, Regulation or Policy:** 36 CFR §§ 219.3, 219.10(a), 219.10(b)(1)(i), 219.10(b)(1)(vi); 16 U.S.C. § 1604(f)(1); 40 CFR §§ 1502.14, 1502.24, 1503.4 (2005); Consistency with the Planning Rule PEIS.

## **E. National Environmental Policy Act**

**a. Draft ROD:** The Nantahala and Pisgah DROD beginning on page 76 states, *“The ID Team considered public and other agency input throughout the planning process (FEIS, Chapter 1, “Public Involvement”), developed and analyzed a reasonable range of alternatives (FEIS, Chapter 2, “Alternatives”) and considered and displayed the environmental consequences in the EIS (Chapter 3, “Affected Environment and Environmental Consequences”) in conformance with the National Environmental Policy Act of 1969 (NEPA), CEQ’s NEPA regulations (40 CFR 1500 to 1508) and the Agency’s NEPA procedures (36 CFR 220). The final EIS reflects consideration of cumulative effects of the alternatives by evaluating past, present, and reasonably foreseeable future actions in the plan area, including federal, state, tribal, and private lands. Moreover, although non-federal lands are outside the scope of this decision, effects from their management have been thoroughly considered and coordinated, to the extent practicable, in the final EIS.”*

**b. Issue and Statement of Explanation:** Specific to CEQ NEPA requirements, the ROD cannot attest to meeting the requirements of Methodology and Scientific Accuracy. The FEIS did not use the 1982/1986 ROS planning framework to establish ROS settings. Definitions of ROS Classes desired conditions must include ROS Class Characteristics descriptors that address, “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes.

Sustainable Recreation plan components must be consistent with the 1986 ROS Book guidance and related research, which informed the Planning Rule. Forest Service directives must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making.

The FEIS failed to map ROS class allocations for each alternative, not allowing for a reasoned decision. NEPA requires that the responsible official make a reasoned decision, which must be dependent on clear methodologies and scientific information. To informed decision-making and informed public participation the plan direction must follow accepted methodology and scientific processes, use common definitions, and use plain writing to establish and present the Plan direction.

The Council on Environmental Quality (CEQ) issued guidance in 2014 on effective use of programmatic National Environmental Policy Act (NEPA) reviews. CEQ states that NEPA requires Federal agencies to consider the effects of a proposed action and any reasonable alternatives on the human environment. Those effects include, among others, impacts on social, cultural, economic, and natural resources. To implement NEPA, agencies undertake an assessment of the environmental effects of their proposed actions prior to making decisions. The NEPA review process is an integral and valuable tool for public engagement and thoughtful decisionmaking, a process that often produces more sound analysis and information that the federal government might otherwise overlook.

Forest Plan geographic bounded areas include a National Forest as a whole, Geographic Areas, Management Areas, and the extent of designated areas such as the area within a Wild and Scenic River established boundary (16 U.S.C. § 1274(b)) and a selected right-of-way (or defined National Trail Management Corridor) for National Scenic and Historic Trails (16 U.S.C. § 1246(a)(2)). Each agency zoned area should have unique desired conditions and standards and guidelines that constrain use so that desired conditions are not degraded.

The agency is obligated to conduct a meaningful impact analysis in accordance with NEPA, and that analysis should be commensurate with the nature and extent of potential impacts of the decision being made. A programmatic NEPA review should contain sufficient discussion of the relevant issues and opposing viewpoints to enable the decisionmaker to take a “hard look” at the environmental effects and make a reasoned choice among alternatives. There should be enough detail to enable those who did not have a part in its compilation to understand and meaningfully consider the factors involved. The NPNF FEIS does not take a “hard look” at the environmental effects.

For the reasons laid out in this objection, it is not reasoned to conclude that the environmental analysis and public involvement process that the environmental impact statement is based on complies with each of the major elements of the requirements set forth by the Council on

Environmental Quality regulations for implementing the National Environmental Policy Act (40 CFR 1500-1508).

**c. Proposed Solution to Improve the Decision:** See Section I Part A Subpart c, Section I Part B Subpart c, and Section I Part C Subpart c of this objection.

A Supplemental FEIS should be prepared to address FEIS deficiencies following the requirements of the CEQ NEPA regulations as found in 40 CFR Parts 1500-1508 (2005), since the 2020 CEQ regulations are flawed. The following paragraphs are excerpts of a review the 2005 and 2020 regulations as found in Complaint Case No. 20-cv-6143 in the United States District Court for the Southern District of New York.

*The courts gave CEQ's regulations "substantial deference" when the regulations had a "well-considered basis." From 1978 through 2020, CEQ's regulations reinforced NEPA's salutary goals. In July 2020, however, CEQ promulgated a new rule (the 2020 Rule), 85 Fed. Reg. 43,304 (July 16, 2020), that attempts to reinterpret and revise the statute, and to eviscerate many of NEPA's well-established, judicially recognized protections. The 2020 Rule purports to bind every other federal agency.*

*Congress passed NEPA in 1969 "to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of" humankind.*

*The Act declares a "continuing responsibility of the Federal Government to . . . fulfill the responsibilities of each generation as trustee of the environment for succeeding generations." In recognition of that responsibility, the statute imposes on the federal government an obligation "to create and maintain conditions under which man and nature can exist in productive harmony," and to "assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings."*

*Section 102 of NEPA requires each federal agency to prepare a "detailed statement by the responsible official" of the environmental impacts of any proposed major federal action significantly affecting the environment. This statement—commonly known as an environmental impact statement—must describe the environmental impacts of the proposed action.*

*NEPA commands that each environmental impact statement address, among other factors, "any adverse environmental effects which cannot be avoided should the proposal be implemented," and "the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity."*

*NEPA further requires that, for "any proposal which involves unresolved conflicts concerning alternative uses of available resources," federal agencies must "study, develop, and describe appropriate alternatives to recommended courses of action."*

*NEPA's requirement to prepare an environmental impact statement "serves NEPA's 'action-forcing' purpose" of "ensur[ing]" that federal decisionmakers "will have available, and will carefully consider, detailed information concerning significant environmental impacts" before approving new projects.*

*NEPA's environmental review process also "gives the public the assurance that the agency 'has indeed considered environmental concerns in its decisionmaking process,' and, perhaps more significantly, provides a springboard for public comment."*

*Section 102 of NEPA requires each federal agency to "develop methods and procedures . . . which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking." Congress directed each federal agency to develop its NEPA procedures "in consultation with" CEQ.*

*CEQ issued its first regulations implementing NEPA in 1978. These 1978 regulations set out procedures and standards for preparation of environmental impact statements and related documents.*

*To help ensure that NEPA's broad mandate was realized, the 1978 regulations defined what impacts an environmental impact statement must assess; accommodated public involvement; and put limits on agency authority to delegate the preparation of environmental impact statements to private project proponents.*

*CEQ's 1978 regulations provided that an environmental impact statement was required where the agency reasonably anticipated "a cumulatively significant impact on the environment."*

*CEQ's 1978 regulations defined "cumulative impact" to mean "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency . . . or person undertakes such other actions," including "individually minor but collectively significant actions taking place over a period of time."*

*On July 16, 2020, CEQ published its 2020 Rule in the Federal Register. See 85 Fed. Reg. at 43,304.*

*The 2020 Rule undermines NEPA's mandate, and conflicts with decades of judicial precedent interpreting the statute. The 2020 Rule limits the number and nature of projects subject to NEPA analyses. It eliminates the requirement that, when NEPA reviews are conducted, agency environmental documents consider the cumulative and indirect effects of the proposed projects. It raises barriers to public participation; allows private, self-interested project proponents to draft environmental documents for federal agencies; and attempts to constrain judicial oversight of NEPA compliance.*

*The 2020 Rule eliminates the definition of cumulative impact and the requirement to consider such impacts.*

*The 2020 Rule also eliminates all references to “indirect” effects and revises the definition of “effects” to include only effects that are “reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives.”*

*Under the 2020 Rule, “a ‘but for’ causal relationship is insufficient to make an agency responsible for a particular effect under NEPA.” The 2020 Rule states: “Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the agency has no ability to prevent due to its limited statutory authority or [that] would occur regardless of the proposed action.”*

*CEQ states that “analysis of cumulative effects . . . is not required under NEPA.” CEQ also states that agency analyses “should not go beyond the definition of effects.” Thus, under the 2020 Rule, agencies may not consider cumulative impacts when determining whether a project will have a significant environmental impact.*

*CEQ justifies its elimination of the requirement to consider cumulative impacts and indirect effects of a project by stating that “the terms ‘indirect’ and ‘cumulative’ have been interpreted expansively resulting in excessive documentation about speculative effects and leading to frequent litigation.”*

*CEQ also justifies the change by noting that “categorizing and determining the geographic and temporal scope of [cumulative] effects has been difficult and can divert agencies from focusing their time and resources on the most significant effects.”*

*These assertions—that assessing cumulative impacts and indirect effects has resulted in excessive documentation and diverted agency attention from “more important” environmental problems—are factually unsupported, unexplained, and legally insufficient to justify such a substantial change in CEQ’s longstanding policy.*

*CEQ makes no effort to explain how, and cites no evidence to support its conclusion that, the 2020 Rule’s elimination of “cumulative impacts” analyses, and its replacement of CEQ’s long-standing regulatory definitions of “effect” and “indirect effect” with the phrase “remote in time, geographically remote, or the product of a lengthy causal chain,” will reduce litigation or agency confusion.*

*CEQ fails to explain how, or even to claim that, the 2020 Rule’s elimination of “cumulative impacts” analyses, and its replacement of CEQ’s long-standing regulatory definitions of “effect” and “indirect effect” with the phrase “remote in time, geographically remote, or the product of a lengthy causal chain,” will not cause agencies to overlook significant*

*environmental impacts of a project. CEQ ignores a long record of environmental documents that have successfully described significant environmental impacts because cumulative and indirect effects were specifically considered in those documents. CEQ does not explain how failure to consider significant cumulative and indirect impacts is consistent with NEPA.*

*CEQ's elimination of the requirement to consider cumulative impacts and indirect effects is inconsistent with NEPA's statutory language—which requires a “detailed statement” of “environmental impact[s],” including “any” adverse effects of the project that cannot be avoided and the law's purpose. It is also inconsistent with decades of judicial precedent that interprets the statute to require agencies to consider the cumulative effects of an action. CEQ has no authority to overrule this precedent.*

*The 2020 Rule's elimination of the requirement to consider cumulative impacts and indirect effects is unsupported by record evidence, disregards factors relevant to CEQ's interpretation of NEPA, exceeds CEQ's statutory authority, and violates the standards of section 10 of the APA.*

Courts may declare that the 2020 CEQ Rule is “*arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,*” “*in excess of statutory jurisdiction, authority, or limitations or short of statutory right,*” and “*without observance of procedure required by law,*” in violation of the standards of the Administrative Procedure Act, 5 U.S.C. §§ 553, 706(2), and NEPA, 42 U.S.C. §§ 4331, 4332(2), 4344; and vacate and set aside the 2020 Rule.

**d. Violation of Law, Regulation or Policy:** USDA DR 1074-001; 16 U.S.C. § 1612(a); 36 U.S.C. § 216, 40 CFR §§ 1502.14, 1502.24, 1503.4(a) (2005). Consistency with the Planning Rule PEIS. A NEPA document must contain sufficient information to foster informed decisionmaking and informed public participation. The draft decision without changes to the EIS would not be in conformance with 42 U.S.C. § 4332(2)(C) and would therefore not be in accordance with law under 5 U.S.C. § 706(2)(A) and not in be in observance of procedure required by law under 5 U.S.C. § 706(2)(D).

## **F. National Forest Management Act**

**a. Draft ROD:** The Nantahala and Pisgah DROD on page 77 states, “*The National Forest Management Act requires the development, maintenance, amendment, and revision of land management plans for each unit of the National Forest System. These land management plans help create a dynamic management system, so an interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences will be applied to all future actions on the unit. Under the Act, the Forest Service is to ensure coordination of the multiple uses and sustained yield of products and services of the National Forest System....*”



The proposed Plan on page 11 states, “Plans may have other content such as ... glossary, ... but project consistency is not required for such other content.”

**b. Issue and Statement of Explanation:** Taken together, plan components need to establish the vision of a plan, set forth the strategy to achieve it, and provide the constraints of subsequent management. Nantahala-Pisgah Plan components need to be better integrated, written clearly, concisely, and without ambiguity and include desired conditions, objectives, standards, guidelines, and suitability-of-land determinations that are consistent with planning rule definitions.

The Plan did not use the ROS planning framework to establish ROS settings to provide for the nature and purposes of the ANST. The Plan ROS class descriptions do not include ROS Class characteristics that describe, “*Evidence of Humans*,” “*Non-Recreation Uses*,” and “*Naturalness*” characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes.

The DROD did not address and could not factually describe that management area direction in the land management plan provides protection for the nature and purposes for which the ANST was established. The plan direction does not provide for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of this National Scenic Trail.

The Forest Plan recreation direction is inconsistent with the 1986 ROS Book and related research, which informed the Planning Rule. Forest Service sustainable recreation direction is inconsistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making.

**c. Proposed Solution to Improve the Decision:** See Section I Part A Subpart c, Section I Part B Subpart c, and Section I Part C Subpart c of this objection.

The ROD should clearly state that glossary terms that define plan components may not be changed through administrative actions.

**d. Violation of Law, Regulation or Policy:** USDA DR 1074-001, 36 CFR §§ 219.7, 219.10(a), 219.10(b)(1)(i), 219.10(b)(1)(vi); 40 CFR §§ 1502.24, 1503.4(a) (2005).

Desired conditions are the vision of what you want your forest to look like, and other plan components (objectives, standards and guidelines, and suitability), would be designed to get you there. Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions. Standards are mandatory constraints on project and activity decision-making, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

## G. National Trails System Act

**a. Draft ROD:** The Draft Nantahala and Pisgah ROD on page 50 states, *“The Appalachian Trail National Scenic Trail corridor will be managed comparably under all alternatives. Under alternative A, a smaller area was mapped in the forest plan than the area that is regularly considered in project design. The proposed plan in the action alternatives has been updated to incorporate the potential foreground acreage that is reviewed at the project level. Corridor acreage differs among action alternatives because of variations in recommended wilderness...”*

**b. Issue and Statement of Explanation:** The Draft Nantahala and Pisgah ROD does not review the National Trails System Act. The National Trails System Act of 1968, as amended, provides that the ANST, *“shall be administered” “by the Secretary of Interior”* to be so located to *“provide for maximum outdoor recreation potential and for the conservation and enjoyment”* of *“nationally significant scenic, historic, natural, or cultural qualities.”* In general, *“The use of motorized vehicles by the general public along any national scenic trail shall be prohibited.”*

The Record of Decision must address providing for the integrated management of statutorily designated areas. Statutorily designated areas must be managed to achieve the purposes for which they were established. The draft ROD decision is not based on a reasonably thorough discussion of...significant aspects of the probable environmental consequences on the ANST nature and purposes.

The proposed Plan and alternatives do not recognize the conservation purposes of the ANST. To provide for the conservation purposes of a National Scenic Trail the ANST corridor must provide for natural ecological processes and not just the visual appearance of naturalness. The National Trails System Act not only established an ANST footpath or treadway, but also direction to protect the corridor that surrounds the travel route. Sections of the Act provide additional important guidance that is associated with the selection of the rights-of-way, planning, and management of the ANST, including direction stating: (1) The ANST corridor is to be preserved, *“to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas;”* (2) *“Avoiding, to the extent possible, activities along the National Scenic Trail that would be incompatible with the purposes of the NST for which it was established;”* and (3) *“National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail.”*

The draft ROD decision is not based on a reasonably thorough discussion of...significant aspects of the probable environmental consequences on ANST nature and purposes. The NTSA establishment and designation of the ANST provides for the Forest Service to manage the ANST

under existing agencies authorities, but subject to the overriding direction of providing for the nature and purposes of this National Scenic Trail. The establishment of the ANST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA and E.O. 13195 limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the ANST corridor. The draft decision fails to act on addressing the requirements of the National Trails System Act to describe the ANST rights-of-way and approve plan components that protect the nature and purposes of the ANST.

The draft ROD did not and could not factually describe how the plan provides for the nature and purposes of the ANST through established plan components that reflect the nature and purposes as a desired condition with supporting scenery, recreation, and conservation considerations addressed as standards and guidelines. Unfortunately, the plan encourages activities and use that if implemented will degrade ANST qualities and values and substantially interfere with the nature and purposes of this National Scenic Trail which is inconsistent with the National Trails System Act.

**c. Proposed Solution to Improve the Decision:** The ANST nature and purposes description should be the principal desired condition for the ANST management corridor. ANST standards or guidelines should clearly describe providing for a Semi-Primitive Non-Motorized ROS setting and a High Scenic Integrity Objective. In addition, see Section I Part C Subpart c of this objection.

**d. Violation of Law, Regulation or Policy:** 16 U.S.C. § 1604(f)(1); 16 U.S.C. §§ 1242(a)(2), 1244(e), 1246(c); E.O. 13195; 36 CFR §§ 219.10(b)(1)(vi); 36 CFR § 212 Subparts B and C; 40 CFR §§ 1505.2, 1502.14, 1502.16, 1508.7 (2005), 1508.8 (2005) 1502.23 (2020), 1503.4(a) (2005).

## Section IV. Specialized and Expert Knowledge

My professional expertise is in dispersed recreation and designated area management and natural resources planning.<sup>6</sup> I was the principal resource specialist in of the development and considerations of the final amendments to the Continental Divide National Scenic Trail Comprehensive Plan and final directives (Federal Register, October 5, 2009, 74 FR 51116). I coauthored a Recreation Opportunity Spectrum Technical Guide with Warren Bacon and George Stankey. My academic experience includes receiving a M.S. in Wildland Recreation Management and a B.S. in Wildlife Biology.

My assessment and objection of the Proposed Plan, FEIS, and Draft ROD is also based on recreation research and handbooks including information found in:

1. The Recreation Opportunity Spectrum: A Framework for Planning, Management, and Research, General Technical Report PNW-98,<sup>7</sup> 1979, by Roger Clark and George Stankey;
2. ROS Users Guide 1982 (and ROS Book 1986) (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service);
3. Recreation Opportunity Setting as a Management Tool Technical Guide,<sup>8</sup> 1986, by George Stankey, Greg Warren, and Warren Bacon;
4. Landscape Aesthetics, A Handbook for Scenery Management, Agricultural Handbook Number 701, 1995;
5. Studies in Outdoor Recreation: Search and Research for Satisfaction. Studies in Outdoor Recreation: Search and Research for Satisfaction by Robert Manning, 2010, and
6. Other similar publications and papers.<sup>9</sup>

Thank you for accepting and considering this objection and proposed resolutions.

*Greg Warren*<sup>10</sup>

Greg Warren

Attachment A – Draft Plan and DEIS Comments

Attachment B – ROS Book

Attachment C - National Recreation Opportunity Spectrum Inventory Mapping Protocol

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<sup>6</sup> [http://nstrail.org/gwarren\\_experience.htm](http://nstrail.org/gwarren_experience.htm)

<sup>7</sup> [http://nstrail.org/carrying\\_capacity/gtr098.pdf](http://nstrail.org/carrying_capacity/gtr098.pdf)

<sup>8</sup> [http://nstrail.org/carrying\\_capacity/ros\\_tool\\_1986.pdf](http://nstrail.org/carrying_capacity/ros_tool_1986.pdf)

<sup>9</sup> <http://nstrail.org/references.htm>

<sup>10</sup> Signature provided upon request

## **Appendix A – Review of FSM 2310 – Sustainable Recreation Planning**

The Sustainable Recreation Planning directive, FSM 2310 (WO Amendment 2300-2020-1), was approved by Tina Terrell, Associate Deputy Chief on April 23, 2020. Unfortunately, this amended FSM 2310 guidance is inconsistent with the recreation opportunity spectrum planning framework and the comprehensive planning requirements of the Wild and Scenic Rivers Act and National Trails System Act. It is improper that the Forest Service modified the 1986 ROS class definitions without articulating compelling reasons for the modifications and disclosing the consequences to those recreationists seeking Primitive and Semi-Primitive ROS settings as described since 1982.

The recreation opportunity spectrum provides a framework for integrating recreational opportunities and nonrecreational activities. The central notion of the spectrum is to offer recreationists alternative settings in which they can derive a variety of experiences. Because the management factors that give recreational value to a site are interdependent, management must strive to maintain consistency among these factors so that unplanned or undesired changes in the opportunities do not occur.

The amended policy makes substantial changes to the recreation planning policy direction without the benefit of 36 CFR § 216 public involvement processes. This policy replaces FSM 2310 (WO Amendment 2300-90-1). The 1990 directive provided the following direction:

*2310.3 - Policy. In addition to general planning policy presented in 36 CFR 219.1, FSM 1903, FSM 1920.3, FSM 1922.03, and FSM 2303:*

- 1. Use the Recreation Opportunity Spectrum (ROS) to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives.*
- 2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development.*
- 3. Use the ROS system guidelines to describe recreation opportunities and coordinate with other recreation suppliers.*
- 4. Recognize individual National Forests need not provide recreation opportunities in each ROS class.*
- 5. Do not provide urban opportunities with appropriated or other public funds. Channel urban class provided by private sector funds to private land if available...*

*2311.1 - Recreation Opportunity Spectrum (ROS). Use the Recreation Opportunity Spectrum (ROS) system and the ROS Users Guide (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service; 1982. 37p.) to delineate, define, and integrate outdoor recreation opportunities in land and resource management planning. Recreation integration/coordination provides for integrated management prescriptions and associated standards to deal with the recreation resource.*

*ROS defines six recreation opportunity classes that provide different settings for recreational use: primitive, semi-primitive nonmotorized, semi-primitive motorized, roaded natural, rural, and urban. Use ROS classes to describe all recreation opportunity areas--from natural, undisturbed, and undeveloped to heavily used, modified, and developed. Apply the criteria involving the physical, social, and managerial environments found in the ROS Users Guide to delineate the different ROS classes of land. Urban class areas are not normally an appropriate management objective for National Forest lands...."*

**FSM 2310** (WO Amendment 2300-2020-1) "Digest" describes substantive changes as: "2311 – Replaces obsolete direction on Resource Opportunities in Recreation Planning with direction on Corporate Data and Tools that have been in place for over 20 years."

This "Digest" statement is factually inaccurate. The use of the ROS planning framework and the ROS User Guide continue to be relevant, especially for addressing the recreation resource in forest planning. The ROS planning framework use for forest planning is supported by a 2007 publication by McCool, Clark, and Stankey in "An Assessment of Frameworks Useful for Public Land Recreation Planning," General Technical Report PNW-GTR-705.

The 1986 ROS Book, which repeated the 1982 ROS User Guide information, was the basis for the 2012 Planning Rule/PEIS and 2015 planning directives. As the Acting Recreation Planning National Program Manager, I prepared comments on the draft FSH 1909.12 planning directives that were based in part on the FSM 2310 direction to use the 1986 ROS Book technical guidance for addressing NFMA and planning rule requirements (16 U.S.C. § 1604(f)(1) and 36 CFR §§ 219.1(f), 219.3, 219.6(b)(9), 219.8(b)(2), 219.10(a)(1) & (b)(1), and 219.19 definitions for Recreation Opportunity and Setting). In this position, I reviewed drafts of a proposed amendment to FSM 2310. These drafts addressed remoteness and evidence of humans as setting indicators.

The National Recreation Opportunity Spectrum Inventory Mapping Protocol dated August 2019 appropriately describes ROS class characteristics, but provides incomplete implementation guidance. The amended 2020 FSM 2310 ROS direction allows for establishing social, managerial, and physical attributes of a place independently, which does not resolve inconsistencies between recreation setting components. This approach is not aligned with the Recreation Opportunity Spectrum planning framework. As such, the 2020 FSM 2310 ROS direction allows for development actions in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings that are incongruent with the desired conditions of these ROS classes.

The Recreation Opportunity Spectrum planning framework, as described in the 1986 ROS Book, continues to be the best science-based process for providing for the integration of the recreation resource in multiple-use planning. The 2012 Forest Service planning rule and 2015 planning directives properly identified the ROS planning framework as the best management tools and science for addressing the recreation resource in forest planning. The recreation

setting is the surroundings or the environment for the recreational activities. The planning rule describes that the recreation setting is the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The rule describes that the Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

The amended 2020 FSM 2310 ROS direction degrades the usefulness of existing National Trail, Wild and Scenic River, and Wilderness policy direction that is intended to protect the values for which each congressionally designated area was established:

- FSM 2353.44 – National Scenic Trails.
- FSM 2354.32 – Wild and Scenic Rivers. *“Management plans for designated [wild and scenic] rivers must: 1. Establish management objectives for each segment of the river. As a minimum, state the Recreation Opportunity Spectrum class featured (ROS, FSM 2310) and procedures for maintaining the ROS for each segment over time. To the extent possible, the management objectives should reflect the river’s recreational relationship to nearby rivers.”*
- FSM 2320.3 – Wilderness. *“Use the Recreation Opportunity Spectrum (FSM 2310) as a tool to plan adjacent land management.”*

It is incorrect to infer that the 2012 Planning Rule and 2015 Planning directives guidance for the recreation resource were based on *“obsolete direction.”* The 2020 “Digest” and the substance of the 2020 FSM 2310 direction has improperly influenced an objection review of the Custer-Gallatin proposed revised plan.<sup>11</sup> The 2020 FSM 2310 digest and policy needs to be corrected.

The 2015 Forest Service planning directives require the establishment of mapped ROS settings through Forest Planning processes (FSH 1909.12 – Part 23.23a). Mapped ROS classes based on the 1986 ROS Book class descriptions would help ensure the integration of multiple use programs through Forest Plan decisions. The ROS class descriptions and policy direction as modified by FSM 2310 (WO Amendment 2300-2020-1) diminishes the usefulness of having mapped ROS settings and using the ROS as a management tool.

The ROS planning framework was not intended to never change, but modifications to ROS class characteristics definitions should only occur through robust public involvement processes, based on science that supports modifying ROS characteristic definitions, and to improve readability. The amended FSM 2310 direction does not meet any of these need for change criteria. Furthermore, effects of any change to ROS class characteristics need to be disclosed.

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<sup>11</sup> [http://nstrail.org/planning/gallatin\\_nf/Final\\_CG\\_LMP\\_Objection\\_Response\\_April\\_15\\_2021.pdf](http://nstrail.org/planning/gallatin_nf/Final_CG_LMP_Objection_Response_April_15_2021.pdf)

The planning rule and planning directives were grounded in the 1986 ROS Book guidance and related research. It is concerning that some in the Forest Service have relied on informal and inappropriate Corporate Data and Tools for over 20 years resulting in the degradation of Primitive ROS and Semi-Primitive ROS settings.

A review of the amended FSM 2310 (2300-2020-1) follows:

Amended **FSM 2310.2** objectives state, *“The overarching objective of sustainable recreation planning is to inform decisions that result in sustainable recreation outcomes. To be sustainable, recreation settings, opportunities, and benefits must: ... 1. Be compatible with other multiple uses...”*

***Issue and Statement of Explanation:*** The intent of this objective is unclear; however, a literal reading of the guidance would indicate that the objective is inconsistent with *“multiple use”* as defined by the Multiple Use Sustained Yield Act of 1960 (16 U.S.C. § 531). NFMA integration requirements are reviewed in FSH 1909.12 part 22. Clearly, the recreation resource is not inferior to other multiple use resources. For example, Forest Plan allocations of Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings without a timber resource purpose would be consistent with the Multiple Use and Sustained Yield Act. The ROS User Guide is consistent with the principles described by the Interagency Visitor Use Management Council.

The Landscape Aesthetics Handbook states, *“The Scenery Management System and ROS serve related, but different, purposes that affect management of landscape settings. In some cases, ROS provides stronger protection for landscape settings than does the Scenery Management System. This is similar to landscape setting protection provided by management of other resources, such as cultural resource management, wildlife management, and old-growth management. In all these examples, there may be management directions for other resources that actually provide higher scenic integrity standards than those reached by the Scenery Management System. Different resource values and systems (the Scenery Management System, the ROS System...) are developed for differing needs, but they are all systems that work harmoniously if properly utilized. In all these examples, there are management decisions made for other resources that result in protection and enhancement of landscape settings.”*

Primitive and Semi-Primitive ROS classes will constrain some actions such as mechanical treatments with heavy equipment or road development if these desired ROS class opportunities are to be available to recreationists seeking those experiences. The recreation opportunity setting since its inception has been composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, and wildlife are all important elements of recreation environments; they influence where people go and the kinds of activities possible. Making choices between competing resource priorities is often the nature of integrated



resource management planning as required by the National Forest Management Act (16 CFR § 1604(f)(1), 36 CFR § 219.10(a), FSH 1909.12 Part 22).

This objective should be deleted, but could be restated describing that, *“Be derived through integrated planning processes”* (36 CFR § 219.10(a)). The Multiple-Use Sustained-Yield Act makes that principle clear by explaining that *“multiple use”* means management to make *“judicious use of the land for some or all”* of the renewable resources thereon, with some land *“used for less than all of the resources”* (16 U.S.C. § 531).

Amended **FSM 2310.2** also describes, *“These ecological and socio-economic outcomes are not only important to the sustainability of recreation, but also contribute to the sustainability of the unit and Agency as a whole...”*

**Issue and Statement of Explanation:** The direction in parts 1 through 7 improves on the prior FSM 2310 direction and provides for important integration considerations that are also found in the planning directives (FSH 1909.12). The statement, *“contribute to the sustainability of the unit and Agency as a whole”* is an inappropriate declaration and should be deleted.

Amended **FSM 2310.2 part 8** states, *“Resource program plans (such as, travel management plans, and so forth), area plans (for example, Comprehensive River Management Plans, and so forth) and project decisions implement, support, and are consistent with relevant land management plan(s) decisions.* FSH 1909.12, sec. 24.”

**Issue and Statement of Explanation:** Comprehensive River Management Plans and National Scenic and Historic Trail Comprehensive Plans should be consistent with the relevant Forest Plan, but this statement would suggest that designated area plan decisions are subordinate to Forest Plan decisions regardless of the Forest Plan direction. FSM 2310.2 part 8 should be redrafted plainly stating that NFMA, W&SR, and National Scenic and Historic Trail plan decisions must provide for the purposes for which an area is designated. In addition, FSM 2310 should clearly state that, *“Comprehensive Plans developed in response to the requirements of the National Trails System Act (16 U.S.C. §§ 1244(e), 1244(f)), and the Wild and Scenic Rivers Act (16 U.S.C. § 1274(d)) are not resource plans as defined by the NFMA (16 U.S.C. §1604(i) and 36 CFR §219.15(e)).”* The phrase, *“and so forth”* is not helpful and should be deleted.

National Scenic Trails, Wild and Scenic Rivers, and Wilderness legislation keeps the management of the federal land under the agencies existing authorities, but subject to the overriding purpose of protecting qualities and values described by the designated area legislation. The establishment of these designated areas thus constitutes an overlay on the management regime otherwise applicable to lands managed by the agency. By eliminating activities and uses incompatible with the purposes for which an area is designated, the designated area limits the management discretion that the agency might otherwise have.

Amended **FSM 2310.3** policy begins by describing that, “1. *Units shall review and use relevant land management plan decisions to guide and inform smaller-scale planning decisions. To ensure attainment of sustainable recreation, all projects and activities must be consistent with the applicable plan components of the land management plan (36 CFR 219.15 (d)).*”

**Issue and Statement of Explanation:** An element that is missing from the direction is to describe policy that responsible officials are to ensure that land management plans are prepared through NEPA interdisciplinary processes that address the integration of the recreation resource in planning analyses and decisions (16 U.S.C. 1604(f), 36 CFR 219.10). In addition, Forest Plans must provide for the purposes for which designated areas are established.

Amended **FSM 2310.5** defines Resource Programs and Area Plans as, “*Plans that address a specific multiple use or resource program on the forest or grassland, or portion of one or more forests or grasslands. The plan area can be delineated by ecological units (such as, watersheds, wildlife habitat areas, riparian areas, geological formations or features, and so forth), and/or by socio-economic considerations (such as, market area, designated area, urban interface area, administrative units such as a ranger district, and so forth). Common examples of recreation-related resource program plans include: facilities plans, travel management plans, interpretive plans, etc. Area-specific plans include: National Scenic or Historic Trail Plans, National Monument Plans, Comprehensive River Management Plans, National Recreation Area Plans, etc. Resource program and area plans must be consistent with land management plan direction. Reference 36 CFR 219.15.*”

**Issue and Statement of Explanation:** FSM 2310 needs to describe that planning processes must provide for the purposes for which an area was designated. FSM 2310 should clearly state that Comprehensive Plans developed in response to the requirements of the National Trails System Act (16 U.S.C. §§ 1244(e), 1244(f)) and the Wild and Scenic Rivers Act (16 U.S. Code § 1274(d)) are not resource plans as defined by the NFMA (16 U.S.C. §1604(i) and 36 CFR §219.15(e)).

Amended **FSM 2310.5** defines Recreation Opportunity Spectrum classes.

**Issue and Statement of Explanation:** The characterizations of ROS classes are a significant deviation from established Physical Setting descriptions. “*Evidence of Humans,*” “*Non-Recreation Uses,*” and “*Naturalness*” setting indicators are improperly omitted in the narratives for Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings.

Primitive settings allow for mechanized use outside of wilderness in the amended FSM 2310 direction. Bicycles should not be allowed in Primitive ROS settings. Primitive means “*of or relating to an earliest or original stage or state.*” Mountain bikes are not primitive in nature.

Asymmetric impacts between bicyclists and traditional nonmotorized users will tend to displace hikers and equestrians from non-wilderness trails. The asymmetric or one-way nature of conflict suggests that active management is needed to maintain the quality of recreation for visitors who are sensitive to conflicting uses. Visitors who are sensitive to conflict are likely to be dissatisfied or ultimately displaced.<sup>12</sup> FSM 2310 should describe that the trail class norm is Pack and Saddle Stock Class 2 and 3 (FSH 2309.18 23.12 – Exhibit 01).

**Issue and Statement of Explanation:** Semi-Primitive Non-Motorized settings exempts open roads stating that, *“occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management.”* This ROS setting does not allow for new administrative or public use roads except in very limited situations – closed roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area.

The unconstrained guidance that, *“occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management”* does not support SPNM desired conditions and needs to be changed. This ROS setting may only have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area. Rarely would permanent and temporary roads be consistent with protecting SPNM ROS setting desired conditions where defined using the 1982/1986 ROS planning framework.

**Issue and Statement of Explanation:** Exhibit 01, Vegetation states that, *“Treatments enhance forest health and mimic natural vegetation patterns.”* Due to social and resource conditions, large-scale vegetation harvest and associated road construction will need to be restricted to meet desired forest conditions.

Natural vegetation patterns have in some cases been created by large fire events, such as the Great Fire of 1910. Hurricane-force winds, unlike anything seen since, roared across the rolling country of eastern Washington. Then on into Idaho and Montana forests that were so dry they crackled underfoot. In a matter of hours, fires became firestorms, and trees by the millions became exploding candles. By noon on the twenty-first, daylight was dark as far north as Saskatoon, Canada, as far south as Denver, and as far east as Watertown, New York. To the west, the sky was so filled with smoke, ships 500 miles at sea could not navigate by the stars. Smoke turned the sun an eerie copper color in Boston. Soot fell on the ice in Greenland. The Great Fire of 1910 burned three million acres and killed enough timber to fill a freight train 2,400 miles long. Merchantable timber destroyed was estimated to be eight billion board feet, or enough wood to build 800,000 houses. Twenty million acres were burned across the entire

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<sup>12</sup> Manning, R.E. (2010). Studies in Outdoor Recreation: Search and Research for Satisfaction. Studies in Outdoor Recreation: Search and Research for Satisfaction. Page 218.

Northwest. The current insect and disease situation are having similar ecological effects as some past fire events, but at a much slower rate of change.

Desired conditions must stress the need to reflect the constraints described for “*Evidence of Humans*,” “*Non-Recreation Uses*,” and “*Naturalness*” setting indicators for this Semi-Primitive Non-Motorized ROS class. Specifically, the statement that treatments are to enhance forest health is vague and could lead to actions that benefit timber programs over allowing for natural processes to unfold. Describing that treatments are to mimic natural vegetation patterns is also unclear and should be deleted.

Forest health is an increasingly important concept in natural resource management. The definition of forest health is difficult and dependent on desired conditions. From an ecosystem-centered perspective, forest health has been defined by resilience, recurrence, persistence, and biophysical processes which lead to sustainable ecological conditions. Most important, so as to minimize the evidence of humans, vegetation management actions need to avoid restoration actions that require the construction of permanent and temporary roads within Semi-Primitive Non-Motorized ROS settings and minimize new roads in Semi-Primitive Motorized ROS settings. Exhibit 01, Scenic Integrity states that, “*Typically High*.” The desired Scenic Integrity Objective should be simply described as High.

**Issue and Statement of Explanation:** Some revised forest plans are establishing Semi-Primitive Motorized settings for timber production areas, which is inconsistent with the intent of this ROS class as referenced in the planning rule. Semi-Primitive Motorized settings allows for maintenance level 2 roads, which are not primitive roads as described in the 1982 ROS direction. Possibly, FSM 2310 could describe that, “*Motorized routes are typically designed as motorized trails (FSH 2309.18 part 23.21, Trail Class 2, No Double Lane) and Four-Wheel Drive Vehicles routes (FSH 2309.18 part 23.23, Trail Class 2, No Double Lane), offering a high degree of self-reliance, challenge, and risk in exploring these Backcountry settings.*” These trail classes would provide for the desired motorized experiences, while protecting soil and water resources through design parameters.

**FSM 2310.5** defines ROS Class Characteristics as, “*The physical, social, and managerial features that function collectively to define a specific recreation opportunity spectrum setting (ROS class) ... Both summer and winter setting characteristics for each of the six primary ROS classes are summarized in section 2311, exhibit 01.*”

**Issue and Statement of Explanation:** Exhibit 01 describes ROS characteristics as “*themes*,” which is not defined nor recognized as a plan component in forest planning processes (36 CFR § 219 and FSH 1909.12 directives). Failing to identify desired conditions and other plan components in the FSM 2310 definition reduces the importance and effectiveness of the planning directives requirement that states, “*The plan must include plan components*,

*including standards or guidelines, to provide for sustainable recreation integrated with other plan components as described in 23.21a. To meet this requirement the plan: ... (a) Must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes...” (FSH 1909.12 23.23a).*

Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions. If forest plans contain specific, measurable desired conditions, this should focus the process of identifying locations where projects are needed, and thereby increase the efficiency of project planning.

General Technical Report PNW-98 December 1979 states, *“The ROS is a helpful concept for determining the types of recreational opportunities that should be provided. And after a basic decision has been made about the opportunity desirable in an area, the ROS provides guidance about appropriate planning approaches—standards by which each factor should be managed.”*

The 2012 Planning Rule Programmatic Environmental Impact Statement states the analysis of the recreation resource is based on the 1986 ROS Book, Scenery Management System, and Recreation facility analysis: *“Three recreation planning and management tools that shape the recreation program include:*

- *Recreation opportunity spectrum – ROS 1986;*
- *Scenery management system; and*
- *Recreation facility analysis.*

*These tools are used to define existing conditions, describe desired conditions, and monitor change. These tools, along with overarching guidance at the national, Department, and Agency levels, serve as the context by which individual national forests and grasslands engage with their communities. In doing so, the unit’s recreation-related and amenity-based assets are considered and integrated with a vision for the future that is sustainable and that the unit is uniquely poised to provide. As the current planning rule procedures related to recreation are quite general, these tools contribute to consistency in recreation planning across NFS units.*

*The recreation opportunity spectrum has been an effective land management planning tool since 1982. The recreation opportunity spectrum is a framework for identifying, classifying, planning, and managing a range of recreation settings. The setting, activity, and opportunity for obtaining experience are arranged along a spectrum of classes from primitive to urban. In each setting, a range of activities is accommodated. For example, primitive settings accommodate primarily non-motorized uses, such as backpacking and hiking; whereas roaded settings (such as roaded natural) or rural settings accommodate motorized uses, such as driving for scenery or access for hunting. Through this framework, planners compare the relative tradeoffs of how different patterns of settings across the landscape would accommodate (or not accommodate)*

*recreational preferences, opportunities, and impacts (programmatic indirect environmental effects) with other multiple uses.*

*The scenery management system provides a vocabulary for managing scenery and a systematic approach for determining the relative value and importance of scenery in an NFS unit. The system is used in the context of ecosystem management to inventory and analyze scenery, to assist in establishment of overall resource goals and objectives, to monitor the scenic resource, and to ensure high-quality scenery for future generations” (Forest Service Planning Rule, PEIS, page 209).*

The Forest Service in response to Land Management Plan proposed directives comments on pages 22 and 47 states, *“FSH 1909.12, chapter 10, section 13.4 has been modified to indicate that the interdisciplinary team shall identify and evaluate available information about recreational settings and opportunities, including seasonal variation, using the recreation opportunity spectrum (ROS). An update of ROS information is not required during the assessment, though additional information not included in ROS may also be identified and included in the assessment process. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes: primitive, semi-primitive non- motorized, semi-primitive motorized, roaded natural, rural, and urban (36 CFR 219.19). The desired ROS class is not required to be the same as the existing ROS class.*

*FSH 1909.12, chapter 20, section 23.23 states that the interdisciplinary team may create desired recreation opportunity spectrum subclasses. For example, the subclass “roaded modified” was first defined in the Pacific Northwest to distinguish those settings significantly altered by past timber harvest from other roaded natural. The interdisciplinary team may also create desired recreation opportunity spectrum classes to reflect seasonal variations. Desired winter recreation opportunity spectrum classes can be developed to depict changes in the location, mix and distribution of setting opportunities (both motorized and nonmotorized).”*

An example of a consequence if FSM 2310 (2300-2020-1) definitions are applied to plan components is that an established Semi-Primitive Non-Motorized ROS setting would no longer protect ANST nature and purposes qualities and values. A Semi-Primitive Motorized ROS setting could be like what is described as a Roaded Modified ROS setting. A Roaded Modified ROS setting is defined by extensive forest management activities and road networks, which is clearly incompatible with the ANST nature and purposes. The ROS class protection norm for the ANST should be restricted to the establishment of a Primitive ROS setting if FSM 2310 (2300-2020-1) direction is implemented.

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions

and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings.

Permanent and temporary roads in Semi-Primitive ROS settings must be constrained using Evidence of Humans criteria as described in the 1986 ROS Book. Rarely would permanent and temporary roads be consistent with a SPNM setting. If a road was to be built for any reason, it should be decommissioned with full obliteration, recontouring, and restoring natural slopes. Monitoring must ensure that surface areas are stabilized and revegetated with native plants.

The formulation and issuance of FSM 2310 (2300-2020-1) is not in compliance with the Public Participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216). The amended policy (2300-2020-1) is inconsistent with the 36 CFR § 219 forest planning regulations and the Planning Rule PEIS.

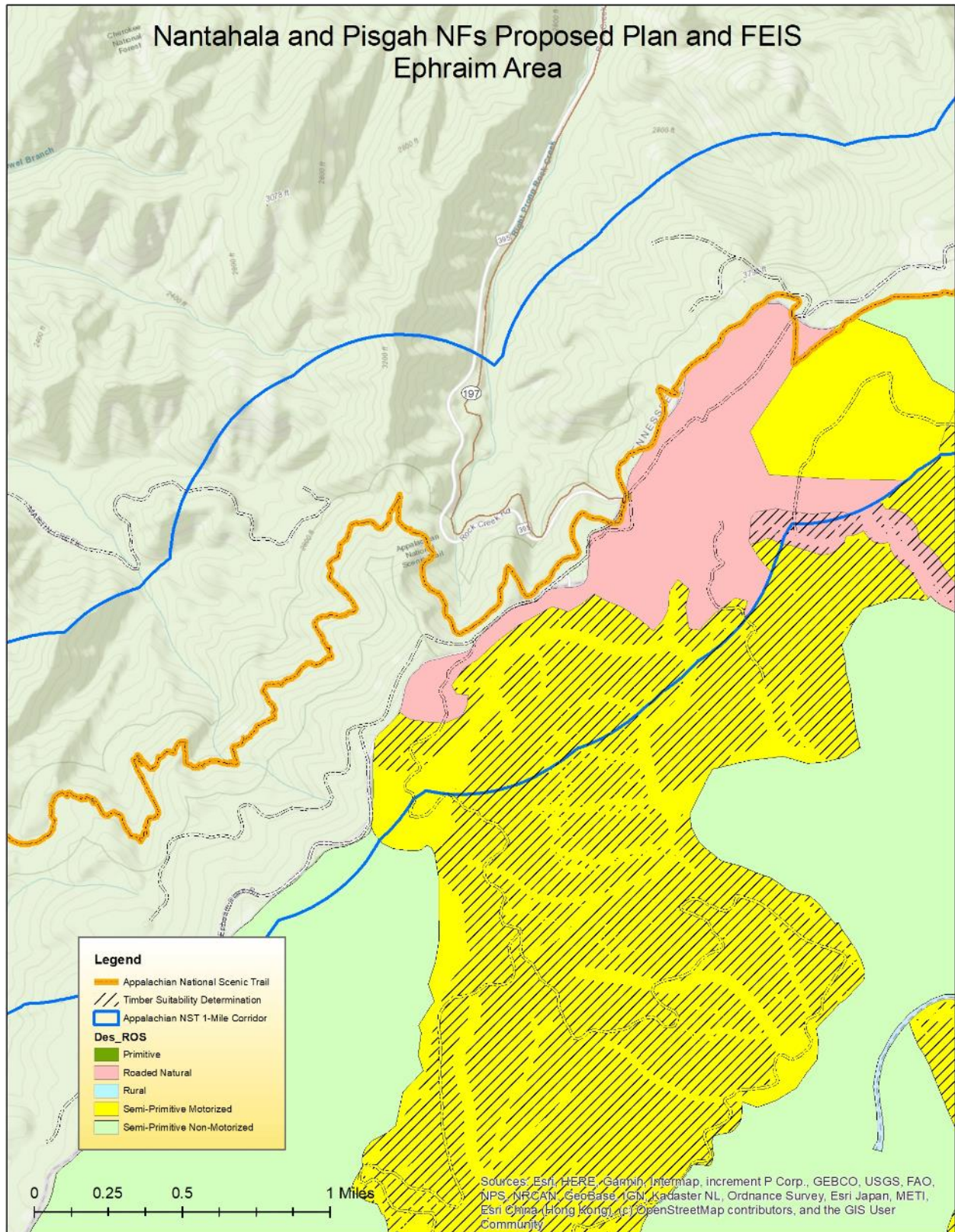
The APA ensures that agencies do not change course based on the *“whim and caprice of the bureaucracy,”* and prevents agencies from subverting the rule of law by making policy based on shifting *“political winds and currents.”* When reversing a prior policy that *“has engendered serious reliance interests,”* the agency must *“provide a more detailed justification than what would suffice for a new policy created on a blank slate.”* This requires a *“reasoned explanation... for disregarding the facts and circumstances that underlay or were engendered by the prior policy.”*

Sustainable Recreation Planning directives must be consistent with the 1986 ROS Book guidance and related research, which informed the planning rule. Forest Service directives must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making. This DR is intended to instill public confidence in USDA research and science-based public policymaking by articulating the principles of scientific integrity, including reflecting scientific information appropriately and accurately.

FSM 2310 (2300-2020-1) policy should be reissued through a Federal Register Notice following 36 CFR § 216 public involvement processes to define the ROS Classes as desired conditions, to include ROS Class Characteristics descriptors that address, in part, “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resource planning processes.

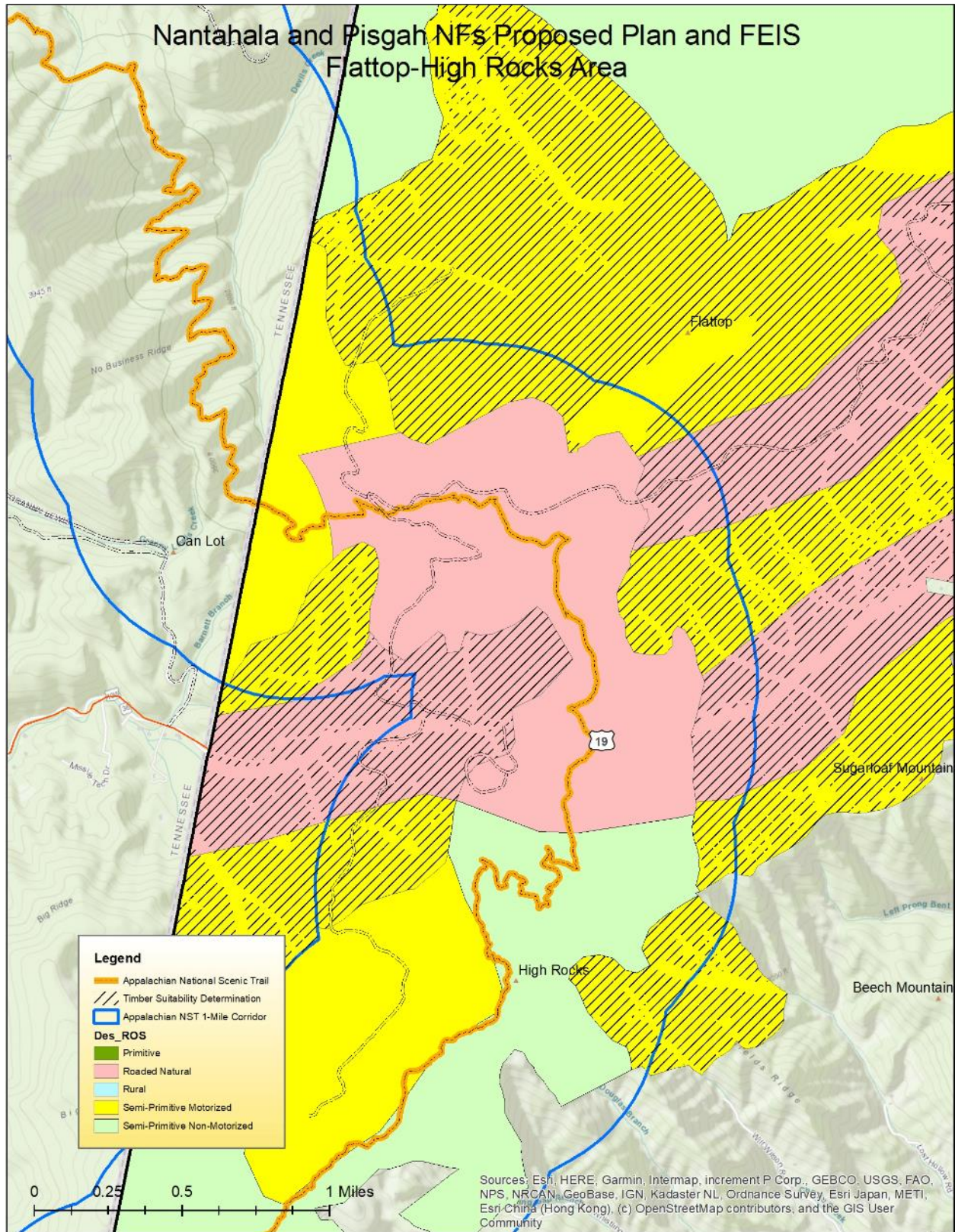
FSM 2310 (WO Amendment 2300-2020-1) direction is not in conformance with the National Forest Management Act, National Trails System Act, Wild and Scenic Rivers Act, NEPA, and regulations (16 U.S.C. §§ 1604(f)(1), 1612(a), 1244(e), 1244(f), 1274(d); 36 CFR §§ 216, 219.3, 219.10(b)(1)(i)); 40 CFR §§ 1502.24 (2005), 1502.23 (2020)), and APA (5 U.S.C. § 706(2).

## Appendix B – Maps of Proposed Plan ROS Settings along the ANST Corridor

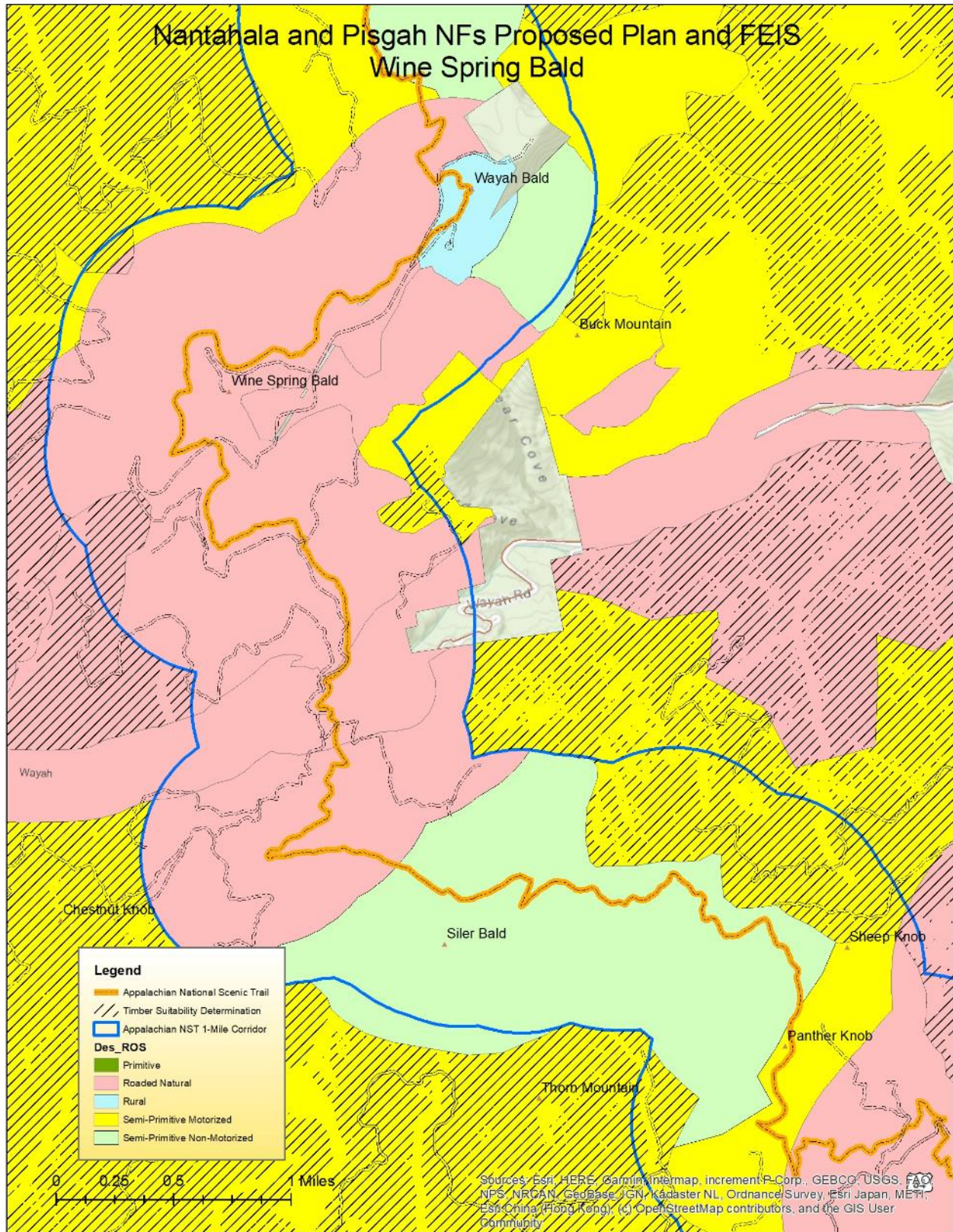




# Nantahala and Pisgah NFs Proposed Plan and FEIS Flattop-High Rocks Area



# Nantahala and Pisgah NFs Proposed Plan and FEIS Wine Spring Bald



# Nantahala and Pisgah NFs Proposed Plan and FEIS Rich Mountain Area

